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Legal Aesthetics of Poverty: mediating knowledge and intervention

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Thesis submitted for the degree of Doctor of Philosophy
Birkbeck, University of London
School of Law

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I hereby declare that the work presented in this thesis is my own, except where explicit reference is made to the work of others.

Moniza Rizzini Ansari

ABSTRACT

This thesis is an investigation of urban poverty as a legal-aesthetic composition. I explore the connections between practices of poverty knowledge, antipoverty law and direct interventions upon poor populations and territories. The knowledge-law-intervention compound is examined in this thesis as co-producing poverty as a problem to be fixed. Together, they integrate the 'industry of global poverty reduction' which, capitalising on the idea of non-profit aid, creates its own objects of intervention and the conditions for its own global expansion. As this is a critical legal research project, law is conceptualised as an active mediator, enabling both circuits of knowledge and intervention by enacting and enforcing ways of seeing poverty. I draw on the scholarship of law and aesthetics to argue that legal practices set in motion a series of techniques of visualisation which activate the images of poverty contained in poverty data. As such, quantitative indicators are turned into qualifications of poverty, shaping interventive measures that are designed to remedy the problem of poverty as it has been created. Therefore, I provide a characterisation of poverty as primarily a command of legal techniques, a normative designation which then ascribes to its concept the contours of an attribute, a state of being, and a material condition. Poverty is thus both produced and productive, in relation to which law itself is, in turn, both formative and formed as an emergent effect – with forms, codes and institutional structures. By observing the ways in which multilateral financial institutions reconfigure the visual economy of poverty in the age of microfinance, I establish connections between local and global practices aimed at 'saving the poor' and argue that they work as legal-aesthetic modulations organising territories and populations. In determining these practices, I am guided by my own position as a 'socio-legal practice researcher' who develops social projects in Brazilian urban territories of poverty and violence.

Keywords: Poverty, Law, Knowledge, Intervention, Aesthetics.

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INTRODUCTION

It was Josué de Castro, the Brazilian geographer of hunger and chairman of the United Nations' Food and Agriculture Organization in the 1950s, who used to say that the world's population is split into two: those who do not eat and those who do not sleep in fear of the revolt of those who do not eat.¹ This thesis is about the things one does to get some sleep. I investigate practices of 'the nonpoor' directed towards 'the poor' in the circuits of knowledge production and of interventions against poverty. I am interested in the mundane practices that manufacture grand ideas, organise the world and work to produce actually existing entities. In investigating the making of poverty, I situate 'law' at the intersection, bridging data and action, where the materialisation of poverty takes place.

The practices that constitute these circuits of knowledge and intervention and their legal interface are here condensed into one metaphorical gesture by the nonpoor, a technical-analytical gaze that observes, surveys, and visualises the poor. Notwithstanding its 'objectivist' attitude, the gaze reveals itself as an affective gaze of fascination, fear, hostility, hatred, pity, benevolence and, I will argue, nostalgia. It is also a divisive gaze of classification. It consolidates a perspectivist encounter between its subject and its object and fabricates those perspectives as entities, as ontological categories of people and territories. This materialisation has long been conceptualised as reification. I attempt to look beyond reification in order to analyse the conceptual-empirical making of poverty itself, as an entity fabricated by practices which precede its ordering effect within social relations. It is after this fabrication that populations and territories are ascribed positions, attributes and functions, thus entering the social structures and processes of reification.

This comprehension of poverty departs from – but certainly does not negate – the concrete experience of poverty. Whilst socioeconomic perspectives define poverty as a material condition, this same definition also reveals that there is no fixed material basis to poverty of any kind. That is to say, poverty is determined by lack, scarcity and deprivation of the basic necessities required for a minimum standard of life. It is the negative pole of a relationship, the sub-standard of the nonpoor. It is propertylessness in the world of the propertied, the dispossession of that which others accumulate. That is to say, poverty is not a material thing, not an attribute, not a state, not even a living condition. Poverty is

¹ See Josué de Castro, *The Geography of Hunger* (Gollancz 1952).

first and foremost an imperative, a normative designation, a classification to which the contours of an attribute, a state and a condition are then assigned. Poverty is not induced, it is deduced; not inferred, but ascribed. Lives are ascribed to poverty and then, in filling the form with material components, poverty comes into a shape. In that regard, I assert that poverty is primarily a legal-aesthetic composition. I attempt to demonstrate in this thesis that law is much more implicated in the history and preservation of poverty than it has been hitherto conceived. Yet, I emphasise the disclaimer that none of the critiques raised in this research are meant to suggest that poverty is an abstract fantasy and this note of caution will be continually reiterated.

In what follows I examine poverty's socio-technical formation, resulting from practices of knowledge and intervention, by foregrounding its legal composition. I argue that law sets in motion a series of techniques of visualisation that activate images of poverty which, in turn, enables the operation of circuits of knowledge and intervention. As a result of this approach, poverty is conceptualised as, simultaneously, a scientific proposition, a technical classification, a social problem to be fixed and a technology that produces effects upon populations and territories thus classified. I shall argue that these formations are aesthetic compositions and hold further aesthetic functions that transform the concrete manifestations of poverty. In other words, poverty is both produced and productive. Knowledge, data, and concepts do not merely represent social reality, they rather create reality. Along with poverty, other techniques emerge from this process. Law itself is one such emergent effect. It appears at the intersection between knowledge and intervention, mediating the knowledge-law-intervention compound.

It is through this legal-aesthetic framework that I examine the connections between practices of poverty knowledge, antipoverty law and direct interventions upon populations and territories classified as in poverty. The knowledge-law-intervention compound is examined in this thesis as it forms the 'industry of global poverty reduction' and the development agenda towards global prosperity based on technical knowledge, which creates its own objects of intervention. This industry, which capitalises on the idea of aid, undoubtedly serves interests and brings advantages to beneficiaries. But I am not interested in exploring intentions, ideologies or gains. This work has already been done and convincingly so by many 'post-development' voices who critique the international order as part of the problem, not the solution, in establishing the basis of global

governance.² To add to these critical voices, I designed a research project that draws on the disinterested practices – or at least, practices that are not primarily motivated by any vested interest in capitalist accumulation – of researchers, lawyers, experts, activists, organisations, collectives, movements who act in the name of social justice. These practices, although aimed at challenging the logics and motors that reproduce poverty, are nonetheless part of the circuits of knowledge and intervention that co-produce such industry. In that sense, poverty knowledge and intervention are part and parcel of poverty production. This thesis is, therefore, informed by multiple practices which co-produce poverty. For sure, they can be found in the World Bank's loans and exports of know-how that interfere in policies and institutions all over the world. But they can also be found in the allocation of resources to and from research centres in any part of the world, as well as in an ethnographer's fieldnotes within a fellowship programme, in the career path of a human rights expert, in the artifacts produced by artisans funded by microcredit; they can also be found in the practices of local authorities which oversee compliance with conditionalities of cash transfer programmes, in the gestures of police violence that criminalise informal housing and livelihoods as well as in the organised strategies of protest which enact new forms of urban life.

Notes on method

My own perspective and my prior engagement with my object of research should be made explicit from the outset as they inform the approach and methods of research that I adopted. My position is that of a 'socio-legal practice researcher' who for the last 10 years has been involved in social projects in Rio de Janeiro, Brazil, observing and participating in different initiatives and indeed different institutions (nongovernmental organisations and research institutes) concerned with issues of violence and poverty. The term 'socio-legal practice researcher' is here used to indicate that I was positioned at the intersections of social sciences and law, as well as of knowledge production and intervention. 'Socio-legal' is a fertile yet conflicting encounter of disciplines, which I attempt to agitate in this research from a critical perspective. Having come from a background in social sciences, a traditionally Marxist area of study in Brazilian public universities, I learned to see the poverty I worked with as a social phenomenon in the cyclical motion of its own

² Writers who have powerfully criticised global governance and who influenced this research in different ways are: Milton Santos, Florestan Fernandes, Aníbal Quijano, Amílcar Cabral, Arundhati Roy, Raquel Rolnik, Silvia Federici, Arturo Escobar, David Harvey, Wendy Brown, Ananya Roy, Naomi Klein, Achille Mbembe, among many others.

reproduction, a product of and a requirement for capital's valorisation and expansion. As a legal practitioner, I was trained to see poverty in snapshots, i.e. poverty as crystallised relationships in concrete, naturalised forms, a condition of unfortunate, if not dangerous circumstances. On the one hand, poverty is both a necessary consequence of accumulation and a precondition for the capitalist mode of production. On the other hand, poverty is an attribute, a quality of populations and territories with further legal implications. Consequently, I was permanently situated in an interstitial point. My role involved participating in collective initiatives of mediation between two incommunicable worlds, the institutional circles of policy and the everyday life struggles of social movements or grassroots groups. Moreover, as a 'practice researcher', I was situated at another intersection, that which mediates knowledge and intervention. I was struck by rather incompatible tasks – both challenging the structures that manage the poor and contributing to the driving forces that continually assimilate the poor; both helping to develop strategic infrastructures through which radical movements can flourish against alienation, and strengthening external threats to such movements by playing by the rules of the institutionalising game – not to mention benefiting professionally by laying claim to an assumed proximity and credibility acquired amidst grassroots, community organisations.

The position of the socio-legal practice researcher is not a comfortable one, particularly when one's field of observation consists of areas marked by urban violence and armed conflict.³ I am not narrating an unusual and unheard of feeling of discomfort, unfamiliar to those who act 'on the ground'. While mediating irreconcilable domains, one is also in conflict with those domains. A mediator between worlds typically struggles with two seemingly opposed aims of trying to make effective change by playing the game and of trying to overthrow the game, hoping to twist it against itself. It is a never-ending job destined to failure, but also one which must advertise its own indicators of success to secure resources for future projects. These disquieting aspects of my professional trajectory prompted me to pursue an investigation into the practices that I was committed to and also in conflict with. I sought, at Birkbeck School of Law, a way to deal with it

³ In such circumstances, the challenges of research ethics faced by researchers within violent settings encompass a range of sensitive issues and corresponding strategic decisions that require balancing 'practical ethics issues' and 'broader ethical questions of the values and principles of research' as outlined by Kirsten Campbell in relation to war crimes. An approach to ethical accountability, then, requires critical reflexivity about the implications of research practices – from early conceptual definitions to later forms of dissemination of findings – but it cannot (and perhaps should not) resolve the researcher's constant sense of consternation, which include the concern of not reproducing or adding more violence to one's research field. Kirsten Campbell, 'Ethical Challenges: Researching War Crimes' in Malcolm Cowburn, Loraine Gelsthorpe and Azrini Wahidin (eds), *Research Ethics in Criminology: Dilemmas, Issues and Solutions* (Routledge 2017).

through a critical legal, rather than a socio-legal, approach. Of course, this international move also brought me a new set of ethical and political concerns. As I designed my research project and methodological strategies, I struggled with the thought of being in another kind of mediating position: an overseas *informant* in the ‘Global North’, thriving in the role of showcasing fascinating exotic contexts and modes of living faraway in the ‘Global South’.

Being familiar with this predicament, I refrained from proposing an investigation that would reproduce the same logic by developing a socio-legal study within a field that I already navigated, i.e. the industry of global poverty reduction. In a way, I already had ‘ethnographic’ materials to build on from experience and recollection.⁴ Although the reflections I develop in the thesis draw upon my experience as a practice researcher – the practices, the interactions, the collaborative work, the results of that work and the shared critical reflections with colleagues over the years in the field – the argumentation that I develop in the thesis is focused on the mechanisms through which that ‘field’ was formed to begin with, the driving forces that seem to move it, the networks that support it and, centrally, the aesthetic elements it mobilises in order to exist or operate in the world today. In that sense, I do not undertake a case study, an ethnography or an applied empirical analysis as if the ‘field’ was stable, established and formal. Instead, I take a multi-sited approach seeking to unravel intricate webs of temporalities and spaces that connect local and global practices of poverty knowledge, antipoverty law and interventions against poverty.⁵ My aim is to contemplate the complex circulation of trends, orientations, influences and communications that set in motion an industry of poverty reduction. I am interested in the machinery that enables such transmissions rather than in their content, aiming to capture the practices that are typically left invisible in the records, reports, guidelines and indicators of success produced by such industry.⁶

⁴ In reference to Rachael Dobson’s ‘Recollection-as-Method’, using personal recollections from experiences of academic life and social policy work in her methodology for critical welfare practice research. Rachael Dobson, ‘Recollection-as-Method in Social Welfare Practice: Dirty Work, Shame and Resistance’ (2017) 17(3) *Qualitative Research Journal* 164.

⁵ For this multi-sited approach, I draw on ponderations from Irus Braverman, ‘Who’s Afraid of Methodology? Advocating a Methodological Turn in Legal Geography’ in Irus Braverman, Nicholas Blomley, David Delaney, Alexandre (Sandy) Kedar (eds), *The Expanding Spaces of Law: A Timely Legal Geography* (Stanford University Press 2014).

⁶ Here, I draw from Ananya Roy’s adaptation of the method of global commodity chain analysis for the mapping of ‘millennial development’ and its circuits of capital (profit, speculation and investment) and truth (authoritative knowledge about poverty). Ananya Roy, *Poverty Capital: Microfinance and the Making of Development* (Taylor & Francis 2010).

In other words, I focus on the global-local circuits of knowledge and intervention, in order to observe the workings of legal operations and techniques in their conjunction. This is what I mean by invoking the knowledge-law-intervention compound. I adopt a legal-aesthetic perspective, following the traces of such circuits as to connect practices that are seemingly disconnected from an institutional point of view but which are clearly linked 'on the ground'. My analyses build on such 'on the ground' contexts and connections even though I do not make them the centre of my narrative in the thesis. In other words, I avoid placing contextual elements at the core of the thesis but I cannot evade their centrality to my reflections. This is why I end the thesis with a more explicit return to context, to reconcile the main discussions of the research with the issues that prompted me to develop the research in the first place. Hence, I examine the constitutive elements of the abovementioned conflicts – the practices of knowledge, regulation and intervention that keep the machine working.

My approach in this research has been to start by precisely working through the conflicts, described above, of the socio-legal practice researcher developing poverty-related social projects funded by international schemes. As a preparatory stage, I traced the steps through which an internationally funded project is produced and implemented in order to visualise the industry of poverty reduction from that angle. First, the bid writing stage – the imperatives of funders' guidance; the scope and thematic prescriptions; the budget constraints; the translation of local challenges into a comprehensive international development framework and language; the presentation of data that confirm the project's relevance; the promises of impacts, outcomes and outputs that will both satisfy the funders' interests and effectively contribute to the relevant local groups; the activities required to be planned as a 'pre-emptive form of thinking in retrospect' about the things to be done in the future in order to be able to deliver the right indicators to support the narrative of the project's success. Then, the stage of implementing the project – facing delays with the fund transfers whilst the work (at this point unpaid) has already started; adjusting the planned timeframe without compromising the agreed deadlines for milestones, deliverables and outputs; strategizing around how to put into practice a collective, participative plan of action whilst limited to what has already been promised to the funders; reaching out to the community and networks; requesting permission to adjust plans; justifying repurposed expenditures by promising new outcomes; executing the revised plan; elaborating partial reports; registering every step to avoid audit problems; occasionally keeping off-record unmentioned activities or engagements; attempting to

cover more ground than officially stated in order to optimise or make good use of the prosperous circumstances and to support formal or informal collaborators; collecting data; using established data and frameworks from the international state of the art references, indicators and methodologies; producing publications with the so-called new knowledge; applying the new knowledge to feed further community engagement. And finally the stage of reporting back to funders – to collect (good) feedback; to produce (good) indicators of success; to report (good) experiences in order to support future bids; to comply with audit inquiries; to present evidence of expenditures; to justify occasional inconsistencies; to renegotiate deadlines; to expect final approval and to keep records of everything for the next 5 to 10 years at least.

Certainly, a lot more than I have listed is involved in this broad chain of practices, as they also include establishing interactions with third parties, establishing labour relations, complying with tax liability, obtaining ethics committee approvals, securing consent from institutions and representatives implicated by the project's interventions, as well as preparing other funding applications to secure the sustainability of the work done into the near future. In this mapping exercise comprised in the lists above, I sought to reflect on all the practices that directly or indirectly impact or influence the content and the execution of such a project, which relate to the imperatives of knowing and of intervening upon poverty. This is an endless exercise as even the most down-to-earth practice of purchasing a notebook to register fieldwork notes needs to be recorded, justified and approved, establishing a particular chain of interactions that could be analysed within increasingly wider networks, to a point where the global divisions of labour and supply chains are also implicated.

Evidently, my aim in this thesis is not to trace and describe these networks per se. I am rather interested in examining broader connections between practices as they form part of the same circuits of poverty knowledge and poverty intervention, even though they might not appear to be connected at first sight.⁷ In the process of thinking through the pathways of a funded project, I could see seemingly unrelated sets of practices in the making of poverty (as a phenomenon, as a problem, as a condition, as an existence, as an attitude, as a legal concern, and so on) which at times interact and combine to form

⁷ I draw on Sally Engle Merry's analyses of how the creation of indicators reveals a slippage between the political and the technical in 'the way issues and problems are defined, the identity and role of experts, the relative power of the people engaged in producing and using indicators, and the power and clout of the sponsoring organization'. Sally Engle Merry, 'Measuring the World: Indicators, Human Rights, and Global Governance' (2011) 52(3) *Current Anthropology* 88.

increasingly complex operations and cascaded effects. I could see that the impact of the projects that I participated in led to more and more indicators about certain localities or certain complex circumstances which, in turn, provided more appeal for international funders. I could see that in regions in which there were fewer projects, there was also less available data and thus less ability to attract funds. But the availability of data about certain regions did not necessarily inform policy or State action in those regions. At times, it seemed that the flow was the other way around and more data about violence appeared to lead to more violent interventions, contrary to what ‘experts’ proposed.

For example, I could draw broader lines – granted, tortuous lines with no clear sense of causation – connecting practices of data collection about violence in Rio de Janeiro emerging from community-based initiatives to oppose police violence and the growing attention such a community would get from public institutions, including in terms of increasing the policing apparatus in militarily occupied favelas, even though such practices (of knowledge and of intervention) come from different entities, produce unrelated effects and speak discordant languages.⁸ If favourable towards policing expansion, data on reduced crime incidence will be mobilised in a correlation to muster support for police practices; if unfavourable, they can be disregarded or also used to call for more policing to the region. Either way, increased policing will generate more data and confirm (thus co-produce) the police relevance at that locality. Other areas of the city – often subjected to differentiated regimes of order and authority – could be even more violent but there would be neither data about it nor more policing. The initially unrelated practices turn out to be connected in that they both generate data through legal techniques. The legal operations and techniques here at play will be presented in more detail below, but it is important to prefigure that I am referring to a comprehensive and pervasive notion of law as any form of organising logic that regulates spaces and relations as well as negotiates collective life – from contracts, agreements, legislation and administrative orders to informal conflict resolution, self-managed associations that produce obligations and everyday life uses of communal spaces.

Similarly, as another example, I could draw connections between Google Maps’s celebrated incorporation of *favelas* – as historically uncharted urban areas – into digital maps with *StreetView* technology adapted to the conditions of the sites, ahead of the 2016

⁸ Ignacio Cano and Eduardo Ribeiro, ‘Old Strategies and New Approaches towards Policing Drug Markets in Rio de Janeiro: Police Practice and Research’ (2016) 17(4) *Police Practice and Research* 364.

Olympics in Rio de Janeiro⁹ and the preceding practices of private corporations investing in the so-called Pacification Police Units in favelas by means of public-private partnerships and a purpose-built equity fund in 2013.¹⁰ They are connected by the discourse on the social and digital 'inclusion' of favelas, back into the city of Rio. They also generate data to confirm that inclusion, through legal techniques such as those that formalise businesses, as well as labour and credit relations. On the other hand, other areas of the city which have been historically less attractive, indeed absent from the cartography and historiography of the city, would remain in the shadows and, thus, not reintegrated – or accordingly, 'excluded'.

I could also see connections between the issuing of an identity card (*Cadastro Único*) to every one of the millions of poor persons in Brazil who receive monthly stipends from *Bolsa Família* or other social programmes and the World Bank's influence – by imparting its accumulated knowledge and global experiences with cash transfer programmes – in the implementation of targeted and conditional systems in place of the universal income support programme launched in Brazil in 2003 (*Fome Zero*). The new cards, needless to say, generate data about all the assisted poor in the country and thus feed into further policy designs.¹¹ More recently, while writing this thesis, I can also observe how the efforts to overcome a worldwide pandemic crisis – in which the millionaires of the world are quick to advertise their generous donations to science and to vulnerable populations and politicians worldwide capitalise on the provisions of emergency support schemes – are connected to more and more profiling, registrations and often the opening of more bank accounts for the poor. Aid and profit go hand in hand in the production of more data, again, through legal techniques – contracts, conditionalities, taxes, regulations and rights and obligations at large.

Concurrently, it is interesting to observe how the seemingly unrelated (though allied) struggles of the landless workers towards agrarian reform, the indigenous fighting against agrobusiness and the urban slum dwellers resisting evictions in Brazil are all interconnected in the call for territorial integrity – or really in their opposition to landed property albeit often articulating strategic proprietary claims to obtain security of tenure.

⁹ Max Opray, 'How Google is Putting Rio's Invisible Favelas Back on the Map' *The Guardian* (London, 9 October 2016).

¹⁰ Livia de Cássia Godoi Moraes, 'Investment Funds in the UPPs: The Financial Speculation of Misery' Margó Hufstetler tr *RioOnWatch* (Rio de Janeiro, 15 December 2013).

¹¹ More on the reform can be found in: Bénédicte de la Brière and Kathy Lindert, 'Reforming Brazil's Cadastro Único to Improve the Targeting of the Bolsa Família Program' (Social Protection Discussion Papers and Notes 32757, *The World Bank* 2005).

They also hold in common the ubiquitous militarised public-private responses – by which many activist lives have been suppressed¹² – which become components of the same grand gesture: the gaze towards the poor. This gesture is obviously a gesture of violence, but it also stretches into less visibly violent dimensions, such as moments of classification and moments of aid.

In view of such circumstances, I interrogate what it is that makes the poor ‘poor’. What makes an indigenous population poor?¹³ The same applies to the landless movement, which organise itself into cooperatives for organic food production and distribution to its members and beyond.¹⁴ I claim that the violent gestures of knowledge and intervention are what turn them into the image of poverty, what merge them into a unified image of *lack* – lack of material resources, lack of means of subsistence – despite the potentials of self-sufficiency that their cooperative and solidarity-based production present. All the world’s dispossessed, today and in the past, are thus unified under that totalising category: ‘the poor’. The underlying condition that defines them as poor is the gaze of the nonpoor that observes, surveys and visualises only to intervene and modulate them as such. The gaze that objectifies modes of existence as ‘social problems’ to be acted upon is tantamount to a gesture of violence that displaces and categorises populations and territories.

How can law, i.e., legal techniques and practices, be conceptualised in the articulations between poverty knowledge (social research, census data, development indicators, social measurements, social classification, quantification, crime statistics, georeferenced digital calculations) and interventions against poverty (aid, social policy, benefits, charity, donations, policing, social insurance, resettlements, banishments, militarisation)? This is the question I set out to explore in this thesis. In order to scrutinise the connections between the abovementioned seemingly unrelated practices, occurrences and circumstances I visualise them as part of a comprehensive whole of interconnected ‘circuits’ of knowledge and intervention. I am interested in the mediation between both

¹² Arkady Petrov, ‘Brazil Ranked 4th Among Countries Killing Human Rights Activists in 2019’ *The Rio Times* (Rio de Janeiro, 16 January 2020); Conectas, ‘Brazil: Country with the Highest Murder Rate of Land and Environmental Defenders in the World’ *Conectas* (São Paulo, 31 July 2018).

¹³ The Brazilian anthropologist Eduardo Viveiros de Castro remarks that what they all have in common is that something essential has been taken away from them – their land, their bodies, their history – which transcendently unifies peoples in a continual transfiguration into ‘the poor’. Eduardo Viveiros de Castro, ‘The Involuntaries of the Homeland: Praise to Underdevelopment’ [In Portuguese: ‘Os Involuntários da Pátria: Elogio do Subdesenvolvimento’] (Caderno de Leituras 65, Chão da Feira 2017).

¹⁴ Marie-Josée Massicotte, ‘Solidarity Economy and Agricultural Cooperatives: The Experience of the Brazilian Landless Rural Workers Movement’ (2014) 4(3) *Journal of Agriculture, Food Systems, and Community Development* 155.

circuits and I argue that law is an active mediator worth looking into from the point of view of its own making.

By the term 'circuits' I mean open-ended itineraries in which parts combine – as direct routes of determination or indirect routes of influence – often working together as pieces of a machine, or indeed conductors in a circuit, with data-generating practices and data-responsive techniques.¹⁵ The metaphor of circuits is useful precisely as it allows an analysis of practices as part of polycentric chains, which includes the construal of such chains as incidentally, or momentarily, connected to conductors belonging to other kinds of circuits (e.g. circuits of capital and of debt). That is to say, it would be limiting to see the circuits of poverty knowledge and intervention as centred around a multilateral development agency – say, in the World Bank – and descending all the way to the local practices of a funded ethnographer doing fieldwork in a remote village in the so-called 'Global South'. It is not simply the streams of funds that I investigate – such as the OECD's Official Development Assistance flows – although those fluxes are broadly encompassed in my research problem. Moreover, my main concern is not the accuracy of such streams and flows, their causal links, the precision of their cascaded influences, but rather what these associations can reveal about how knowledge, law and interventions operate to manufacture poverty as a thing in the world, an existing entity.

By looking into the circuits of knowledge practices and of intervention practices (alternatively, the circuits of science of poverty and of politics of poverty) I am able to find legal techniques that are active between them. Examples of these can be found in formal instruments or procedures – such as international donation contracts, research and cooperation agreements, conditionalities of structural adjustments, law reforms, criminal law and the quasi-criminal administrative orders – as well as in the legal practices of everyday life – such as informal trade and labour market, micro-regulations of public space, curfews and checkpoints, hostile urban architecture, public order surveillance by law enforcement, community-based conflict resolution and neighbourhood associations. Law, thus broadly construed, can be seen to hold a relevant role in the interface of science and politics, and this role is what I explore and demonstrate in this thesis. For sure, law can be examined as a circuit itself, as system theories do. However, I am interested in the

¹⁵ As will be elucidated in the thesis, I borrow this metaphor of circuits from Ananya Roy. However, differently from the method she applied to map poverty capital, I do not proceed with inquiring into the locally situated manifestations of the circuits that I examine – with empirical methods of interviews and ethnographic observations. Instead, as will be presented, I build on transnational and transhistorical manifestations of the functions of the circuits that I observe. Roy (n 6).

mediating role of law in a broader picture of poverty production, in how it enables other circuits to function rather than in its own inner functions. I will argue that it is in this mediating position that law itself also emerges as an entity, existing thing in the world.

As a critical legal research project, this task consists of interrogating 'law' in its multifarious operations and its pervasive takeover of everyday life, that is to say, law's increasingly dissipated role in the political, social and economic spheres. New legal forms emerge as effects of new modes of law's own operationalisation. The critique of law that I set out to develop is one that considers the most ordinary and material elements composing that which we come to apprehend as 'law'. I turn to the established scholarship of 'law and aesthetics' to situate my argument within a perspective which highlights the media and the techniques by which a 'legal' problem is articulated and answered. The recorded products of these media and techniques are captured as images, that is, as aesthetic compositions. I am particularly referring to images of poverty contained in poverty data, i.e. the visual assemblages, collages and associations that make poverty visible and perceptible in the world. Poverty data makes poverty concrete and operational, i.e. data hold normative functions. From this perspective, data and images are devices of knowledge and intervention. While I am interested in the rules of procedure that generate poverty knowledge, I am most interested in the techniques through which knowledge practices create existing entities to be intervened upon, i.e. in how the conceptualised poverty is materialised in the world and how that materialisation puts in motion a series of implications for populations and territories. In doing so, I see my research as echoing a similar reflexive process that critical criminologists have undertaken in the past decades, recognising the role of criminology's own disciplinary history in the invention of its objects of investigation, i.e. crime, the criminal, and the penal state. Such movements in criminology display a critical self-assessment that is missing in poverty research and I seek to start delineating this critique by means of a critical legal investigation.

Although I am foregrounding law in this broad picture, I do not wish to suggest that there is a set and linear process of implicated determinations. Instead, the flows of exchange between science, law and politics are more adequately construed as multidirectional – as implied by the language of circuits. Does this understanding imply a withdrawal from a Marxist analysis of poverty's historical materialist formation? I sustain that it does not. Certainly, to think of poverty as a socio-technical creation entails destabilising the key but taken for granted concepts of capitalism, private property and society – in other words,

even a critique against dominant structures of knowledge that condition the material bases of poverty is itself immersed in a worldview that naturalises poverty as an *a priori* condition. But this destabilisation does not revoke the potency of such concepts in the interpretation of how things in the world are contingently combined, enabling and affecting each other. The destabilisation is particularly useful if we are to attempt to, as I do, reinterpret poverty as something which transcends its relativeness to prosperity, its status as a by-product, or as an epiphenomenon to the production of wealth. An assertive formulation of poverty, i.e. one that is not epiphenomenological, acknowledges that poverty is a technical-scientific formulation that is both produced and productive. But that does not mean to suggest that poverty is thus an immaterial formation. Once formulated, it enters social interactions as an entity and it co-produces a series of other interactions – for example, debt relations formed out of a previous demand for credit. This is why I combine a mundane critique of capitalist accumulation and expansion with a historical materialist reading of social interactions. I combine these orientations without much concern as to which one is to be considered more adequate to grasp the ‘reality’ of the world. I am rather concerned with how things come to be real in the world.

Structure of the Thesis

The chapters in this thesis present the results of the analysis. I report on what the research trajectory allowed me to find in terms of legal mediations and legal implications in poverty making. The chapters present different moments of interaction between knowledge-law-intervention – or poverty knowledge, antipoverty law and interventions upon populations and territories classified as in poverty. While the logic of circuits that I adopt entails that there is no clear-cut separation between each part of this interaction, I seek to situate law at the forefront of each chapter to demonstrate its diverse workings in the mediating position in which I find it situated. I selected five legal moments to explore in five chapters, in which the knowledge-law-intervention compound plays out in different ways:

1. Law arises from techniques that forge the material basis of poverty as propertylessness and cut through populations and territories by establishing standards of separation – i.e. displacements and categorisations.
2. As a technique of visualisation, law takes form in codifications that regulate poverty and sets the tone for images of poverty to take shape, which, in turn,

establish scientific modes of measurement and calculation as well as the political responses to fix the ‘newly-formed’ problem.

3. Law is presented to the eyes at the moment when quantitative indicators are turned into qualifications of poverty in order to activate measures of intervention such as policy and international programmes.
4. Within established visual economies of poverty that take data as fact, law prompts the formalisation of populations and territories, i.e. their assimilation into the proper form of poverty.
5. Legal-aesthetic modulations assemble gestures of violence by creating the conditions under which bodies and soil are configured in the urban landscape.

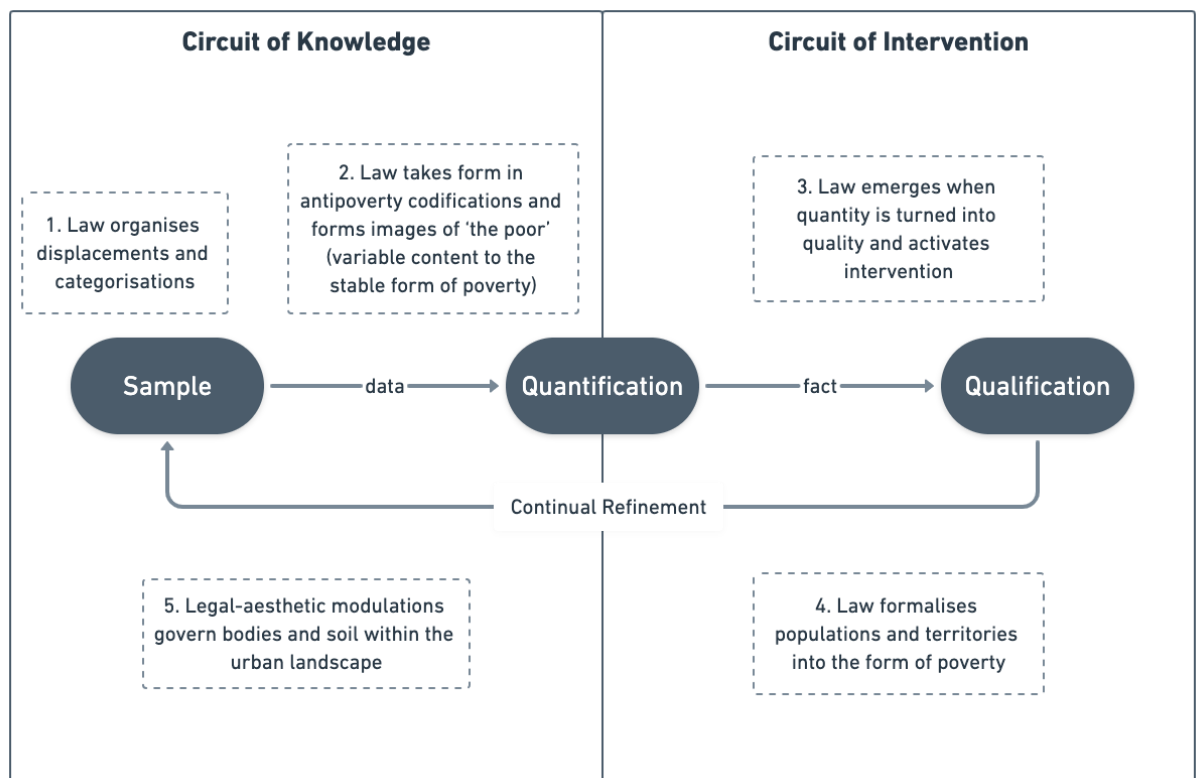


Figure 1: Thesis Road Map: legal moments mediating of the circuits of knowledge and intervention.

I start, in chapter 1, by laying out my working concept of poverty as a legal formation. I challenge the socioeconomic understanding of poverty – that it is a condition of deprivation, deficit or lack of material resources – in order to consider the legal practices that produce material lack in the first place. That is to say, if poverty is not to be construed as the antithesis of wealth and prosperity, what else can the legal history and geography of modern private property reveal about the formation of such antithetical

conceptualisation? My argument builds on what scholars describe as a legal regime of property as exclusive ownership, a 'regime' that differentiates the propertied and the dispossessed, the haves and the have-nots along with a series of other forms of differentiation. I explore the propertylessness implied in poverty and reformulate it in terms of an active factor (rather than passive) in the production of poverty. This mode of analysis is not new to critical thought: accumulation of property to one side, dispossession to the other. But I attempt to agitate this relationality in order to isolate its formative elements, with the intention of foregrounding two violent gestures at the 'origin' of poverty's capitalistic production: territorial displacement and populational categorisation. As such, territory and population present the compositional elements, the material inscriptions – in the soil and in bodies – of social interactions of accumulation and of dispossession. These are the two compositional elements around which my analysis will gravitate throughout the thesis. By laying the thesis' groundwork in these terms, I am turning away from a traditional, formalist understanding of 'law' as a system of rules that regulates the basic institutions of capitalism – the regime of property – and I am prioritising a view over chains of legal practices and techniques that interweave a seemingly natural order of things that, in turn, takes poverty for its symptoms.

In chapter 2, I seek to demonstrate how legal modes of poverty administration have historically consolidated the changing images or ways of seeing poverty. I analyse four historical clusters of antipoverty legal codifications that produce and respond to such images of poverty, i.e., the typified profile of the poor, the designations of the sites of poverty, the scientific validating framework and the agenda of intervention. The clusters that I analyse are: poverty relief, criminalisation of poverty, welfare support and international development aid. My proposition is that the scientific and the interventionist frameworks require legal operations and, in turn, conform to their aesthetic implications. Between the science of poverty and the politics of poverty, we find law. I aim to demonstrate the functionality of legal techniques and their aesthetic effects. Thus, the chapter presents a legal-aesthetic analysis of the imageries created around poverty and which are derived from and are productive of legal forms of poverty regulation. The aim is to delineate how this profile, 'the poor', has been substantially transformed while the form 'poverty' has purportedly remained stable in modern history.

This is the argument I further develop in chapter 3. The concept of poverty is presented as a dynamic formation (a legal-aesthetic composition) that is continually renewed and which

continually produces effects upon the populations and territories that are classified as such. I draw on the philosophy and history of science – and material perspectives on scientific practices – in order to argue that legal techniques mediate social quantification and legal qualification. I do that, as mentioned above, through reflections on the scholarship of ‘law and aesthetics’, particularly in relation to its recent turn to material approaches. I also build on discussions of scientific techniques of visualisation and cognition to split the production of poverty into stages: first, inscriptions of poverty occur through the demarcations of property that produce the propertied and the propertyless as seemingly *a priori* and pre-social categories; then, there are ascriptions of the propertyless as problems to be fixed – as threats to be removed, delinquents to be disciplined, destitutes to be aided and so on. Through these steps emerges the ontological entity of ‘the poor’, a statistical calculation which becomes an entity.

In chapter 4 I analyse a particular visual economy of poverty circulating in the world today. It refers to the abovementioned industry of global poverty reduction and the current trends of a financialized conceptualisation of poverty. I approach the aesthetic interventionism of the development agenda and examine the rights-based definitions of and remedies to poverty. In stating that law facilitates the passage from data to facts – or reads data as fact – I examine law’s normative qualification of ‘poverty’ as a gesture towards the formalisation of populations and territories that enables the formulation of rights-based remedies to poverty. Formalisation is construed as a form of assimilation, mirroring – or perhaps enduring – historical imperialist purges on the incomplete transfigurations of the righteous poor. From this perspective, the financial inclusion promoted by microfinance appears to replicate the divisions of the good and the bad poor in the renewed images of the duly banked or the obstinate unbanked. Human rights, then, are construed as the legal technology forged to tackle the social exclusions created by their own foundational principle of exclusionary rights to property.

Finally, chapter 5 presents the culmination of my argument. I illustrate the extent to which the frameworks of formalisation may be connected to other seemingly unrelated practices of interventions that affect populations and territories of poverty. I do this by returning to the context of Brazilian favelas and I narrate an exemplary scene to illustrate the ultimate, most bodily repercussion of the violent gestures of visualising poverty. I address the legal-aesthetic modulations of poverty from this concrete, situated perspective to sustain that ‘law’ is what bridges the visualisation practices of previous chapters and the contextual

circumstances that I narrate in the final chapter. The knowledge-law-intervention compound becomes clearer as a machinic collaboration between seemingly unrelated practices that take place in favelas and in international settings. It might seem late to introduce contextual notes but for reasons explained above, I developed this thesis *from*, but not *about*, a situated viewpoint – i.e. as a participant in the circuits of poverty making. At last, I return to my initial questions concerning the spectator, the nonpoor who direct their gaze towards the poor. I frame this as the ‘problem fixer’ who attempts to fix the problem created by their own gaze. The violence of the gaze discloses, then, an intrinsic nostalgia for primitivism.

On this account, in each chapter of the thesis I approach a legal moment by following the circuitous interactions between knowledge and intervention illustrated in Figure 1, guided by the currently predominant economy of poverty which promotes both financial and urban modulations of populations and territories across the world. In my concluding remarks I extract, from the analysis I develop in the chapters, insights to the ‘socio-legal practice researcher’ working in territories of poverty and violence. I do this by elucidating what each stage of the circuit, in fact what each identified legal moment, reveal about that conflictive position. I end with a reflection on praxis and an ethical consideration about the guiding principles of this practitioner’s craft.

CHAPTER 1

The legal frames of poverty: the modern invention of propertylessness

In order to start exploring the ways in which law participates in the formation of images of poverty, which historically support interventions upon poverty, I examine how the interaction between modern law and poverty has been established in reference to property. In this opening chapter, I turn to the legal history of modern private property as the base of a 'capitalistic' definition of poverty in terms of lack, i.e. material deprivation.¹ My purpose is to revisit poverty's typical definition as a form of 'propertylessness', where the privation of some is directly implicated in the accumulation of wealth by others, and which has been contrasted at different stages of capitalism with the accumulation of different materials – land, money, assets, stocks, credit. Although ideas of poverty have certainly existed before the consolidation of capitalism, and although experiences of material deprivation and social hierarchy evidently precede capitalism,² this model of poverty as material maldistribution – dispossession as the obverse of accumulation – has been a contingent innovation of the capitalist mode of production.

Be that as it may, in observing this negative form of poverty definition under the register of a capitalistic understanding – negative because it is construed as the antithesis of wealth – an important element emerges for further inquiry: the material variability of the concept of poverty seems to correspond to measures taken in response to varying images of poverty. Poverty's negative status in relation to wealth and the resources historically mobilised to respond to it, then, seem to indicate that poverty results, first and foremost, from normative designations rather than purely by absolute living conditions of deprivation. Under this light, poverty involves a legal determination of 'the poor' before it

¹ I refer to 'capitalistic' definitions and notions in terms of thinking through capitalism, as a concept itself, designed to gather and give cohesion to a multitude of elements that would otherwise appear disconnected and independent. But once formulated as a concept, a tool, capitalism allows an entire mode of thinking that can be useful for understanding the world. This mundane perspective will be clarified in chapter 3, but I should make it clear that I do not mean that it is all pure abstract invention; capitalism creates actually existing things, relations and material conditions in the world. While capitalism is a concept, it also operates to govern existences by a politics of subjectivity. As such, it is a form of colonial-capitalistic 'regime', as Suely Rolnik writes. Suely Rolnik, 'The Spheres of Insurrection: Suggestions for Combating the Pimping of Life' (2017) 86 e-flux.

² The social function of poverty has also drastically changed in the transition to capitalism, according to Bronislaw Geremek, *Poverty: A History* (Blackwell 1994).

translates itself as material deprivation.³ This is the poverty that I am concerned with in this thesis, i.e., the legal-aesthetic configuration of poverty which surpasses socioeconomic terms and involves the accumulation of spatial and temporal differences that frame populations and territories. To that effect, I claim that law's spatial and temporal orderings are at the heart of the aesthetic dimensions of poverty, with sense-making and world-making functions, as will be discussed later in this thesis. Subsequently, in chapter 2, I will argue that it has been the changing modes of administration of 'the poor' that have historically shaped the concept of poverty, rather than the other way around.⁴

My initial caveat regarding the risks of insinuating an immaterial notion of poverty, disconnected from actual lived experiences of deprivation and misery, needs to be restated here. To turn away from capitalistic and distributional perspectives of poverty as a material lack, is a necessary move to strategically open the way for another kind of approach to poverty: one which considers the legal practices that co-produce the concept, feed intervention strategies and modulate the lived experience of poverty. Hence, to begin with, I will demonstrate in this chapter how historical narratives about the formation of private property, as a legal regime that inaugurates modernity, engender the capitalistic versions of the concept of poverty as well as other legal techniques of division, categorisation and hierarchy. I propose that the part played by law in the production of poverty is more than ancillary, and that it is rather a creative role. In section 1.1 I will refer to the legal history of modern property, which establishes poverty as propertylessness. This history refers to the European transition from feudalism to capitalism and centralises the acts of violence that facilitated this transition and which are often disregarded by liberal narratives of the birth of capital. Pauperisation, populational dislocation and urbanisation are foregrounded as effects of the violent (and resisted) developments of a regime of exclusive ownership. Furthermore, in section 1.2 I stress the planetary magnitude of this historical formation and discuss how the colonial roots of capitalism are by no means an incidental occurrence but indeed a key factor for the consolidation of capitalism and the geopolitics of poverty. Private property, individual ownership and territorial formations are not European institutes which have been merely transplanted into colonies. Colonial territories themselves were terrains where innovations have been shaped throughout history – a geopolitical dynamic that is most certainly not left in the

³ Similarly, Jane B Baron developed the concept of 'no property' to inquire into homelessness in proprietary terms rather than as a problem of poverty per se. No property is, thus, a legal category with its own sets of duties and liabilities. Jane B Baron, 'Homelessness as a Property Problem' (2004) 36 *Urban Lawyer* 273.

⁴ A point inspired by Georg Simmel, 'The Poor', Claire Jacobson (tr) (1965) 13(2) *Social Problems* 118.

past and that continues to be re-enacted in the present, though often reshaped. Finally, in section 1.3 I focus on the violent gestures of poverty production as technologies of visualisation that continually modulate territories and populations. I draw on critical legal geography scholarship to refer to property (or propertylessness) as a mode of seeing and governing space – or as I will discuss later, a mode of knowing and intervening upon poverty. From this reading of poverty production – and to prefigure the argument – law is integral to this technological operation and poverty can be construed as a legal production.⁵ The discussion presented in this chapter aims to demonstrate how characters of ‘the poor’ have been formed in relation to property, inaugurating entire new explicative systems of poverty as a material lack, a problem of distribution that can be fixed by material provisions.

1.1 Propertyless poverty

‘Enclosures have appropriately been called a revolution of the rich against the poor’,⁶ Karl Polanyi famously wrote in *The Great Transformation*, referring to the hedging of common fields in England for economic and technological improvement in the sixteenth century and beyond. The history of the enclosures is often recounted in terms of the effects of the privatization of common lands, rural depopulation, urbanisation and the pauperisation of the masses, marking the transition from feudalism to capitalism. These effects are also typically raised as precursors of the Industrial Revolution in the eighteenth century as well as of the appropriation of colonial territories worldwide. Nonetheless, contemporary historians diverge as to the accuracy of these connections as well as to the ascription of enclosures as the main catalyst of the transformations of the time.⁷ In revisiting this literature, I do not enter the discussion from a historiographic perspective. My purpose is to retrieve a few decisive components from the history of the modern concept of private property in land, so as to provide a clearer understanding of the part played by law, and of

⁵ This argument will also be further developed in chapter 2 when I situate law as a technology of visualisation, i.e., the propeller of knowledge and intervention upon poverty which modulates it legally and aesthetically. In that development, law itself will be understood as an emergent effect of its own making. I consider this to be my contribution to the literature that I draw on for my argument, i.e. I will treat posited, codified laws as succeeding the gesture of visualisation, a form of inscribing selected, framed occurrences in the world, rather than the primordial manifestation of ‘law’.

⁶ Karl Polanyi, *The Great Transformation: The Political and Economic Origins of our Time* (first published 1944, Beacon Press 2001) 37.

⁷ A revisionist example of the role of enclosures in the proletarianization of agricultural labour is presented in Leigh Shaw-Taylor, ‘Parliamentary Enclosure and the Emergence of an English Agricultural Proletariat’ (2001) 61(3) *The Journal of Economic History* 640.

how law itself has been shaped in this course of transformations. In doing so, I revisit the critical consensus that modern law and private property are mutually constituted in order to add poverty into the equation. My argument is that property and law give rise to poverty not as an epiphenomenon, a negative and unfortunate by-product – i.e., as the antithesis of property wealth – but as an active creation. Poverty as propertylessness, I argue, is to be examined as a necessary legal technique, a gesture that reshapes populations and territories.

There is an extensive literature in legal history that situates the advent of modern, western law as a result of and, at the same time, a crucial instrument for the institution of private property and the commodification of the soil.⁸ That is to say, modern law is recounted as having founded itself in regulating the expropriation and demarcation of land⁹ so that it can circulate in the exchange market – namely through private acts of parliament, the Enclosure Acts in the sixteenth and seventeenth centuries, and later through the public General Enclosure Acts in the nineteenth century¹⁰ – as well as in structuring criminal law and public order policing towards the preservation and protection of property in the eighteenth century against new notions (or new definitions) of crimes.¹¹ Marxist scholarship is particularly assertive in situating private property at the birth of the liberal State, as a fundamental right that upholds the modern legal regime.¹² Hence, changes in rights to use common lands and cooperative customs at the turn of the sixteenth century have engendered a new concept of property in land based on spatial exclusion and absolute right to individual ownership which links *persona* to *res* via contractual

⁸ A few examples can be found in the essays presented in John Brewer and Susan Staves, 'Introduction' in Brewer and Staves (eds), *Early Modern Conceptions of Property* (Routledge 1996). See also David Seipp 'The Concept of Property in the Early Common Law' (1994) 12(1) *Law and History Review* 29.

⁹ A note of caution: spatial exclusion and absolute right to property existed before enclosures. Enclosures applied those concepts to what was formerly common land. On the other hand, critical geographers alert us to a 'mythical' idea of the commons in which it is frequently assumed that before the acts of enclosure land would have belonged to the people and its use would have been free and unregulated – when in fact common land is the descriptor of land used in common by the granting of common rights, which legally defined who were the commoners. Thus, more accurately, enclosures signified the suspension of common rights and, thus, the exclusion of those now without use rights, prompting the emergence of modern private property rights to land formerly held in common. See Briony McDonagh and Carl J Griffin, 'Occupy! Historical Geographies of Property, Protest and the Commons, 1500-1850' (2016) 53 *Journal of Historical Geography* 1.

¹⁰ David Brown and Frank Sharman, 'Enclosure: Agreements and Acts' (1994) 15(3) *Journal of Legal History* 269.

¹¹ Douglas Hay, 'Property, Authority and the Criminal Law' in Douglas Hay, Peter Linebaugh, John Rule, E P Thompson, Cal Winslow (eds) *Albion's Fatal Tree: Crime and Society in Eighteenth Century England* (Pantheon 1976).

¹² Eric Hobsbawm, *The Age of Revolution: Europe: 1789–184* (first published 1962, Vintage Books 1996); E P Thompson, *The Making of the Working Class* (first published 1963, Penguin Books 2013); Christopher Hill, *The World Turned Upside Down: Radical Ideas during the English Revolution* (Viking Press 1973); Peter Linebaugh, *Stop Thief: The Commons Enclosures and Resistance* (PM Press 2014).

interactions.¹³ This in turn, scholars recount, has enabled a continuous process of accumulation by landowners in the context of the development of agrarian and industrial capitalism. It has also objectified property as a thing in itself with major implications both for hoarding landowners as well as for farmers turned into waged workers. Moreover, as will be seen, these developments also naturalised the social relations between people and space and prompted a series of divisions that are seen as the foundations of modernity.¹⁴

Certainly, the transformations assembled in these accounts, and schematically described here, are not so clearly marked in the literature. Michael Tigar and Madeleine Levy trace the transformations of law within a much longer and more gradual path from the prehistory of mercantilism – since at least the initiation of processes of maximising trade in the eleventh century – to the formation of the western industrial world.¹⁵ As Marxist legal historians, they construe legal change as the product of conflicts between social classes, with a narrative centred on a ‘bourgeois revolution’. They recount that the early developments of the legal infrastructures that introduced and preserved private property were indeed formed by the addition of new commercial and financial content into legal structures that long preceded the land enclosures, such as in the use of free contracts as a technology to secure trade.¹⁶ Rather than attributing a clear-cut role to law as serving a dominant ideology, the authors point to an emerging ‘jurisprudence of insurgency’, in which conditions of trade were the element of contention between competing ‘legal ideologies’ and which further pushed the boundaries for legal and social change. These transformations are framed as the outcome of social struggles against feudal hostility towards merchant interests. The figure of the merchant as a social outcast, involved both in violent upheavals and in legal disputes to secure free commerce, gave rise to a ‘bourgeois law making’ favourable to the expansion of trade – i.e., the integration of rules of contract and property to the preceding, cumulative bodies of legal principles of natural law, Roman law, Feudal law, Royal law, Canon law and law merchant.¹⁷

¹³ Michael Tigar and Madeleine R Levy, *Law and the Rise of Capitalism* (Monthly Review Press 1977).

¹⁴ As will be discussed below with Nicholas Blomley, ‘The Territory of Property’ (2016) 40(5) *Progress in Human Geography* 593.

Marilyn Strathern also refers to this legal development of property as crucial to the modernist foundational distinction between subject and object, which in turn upholds other modern analytical divisions – culture and nature, law and society, person and property, us and them, self and other, human and nonhuman and so forth. I will pick up on this in chapter 3.

Marilyn Strathern, ‘Cutting the Network’ (1996) 2(3) *The Journal of the Royal Anthropological Institute* 517.

¹⁵ Tigar and Levy (n 13).

¹⁶ Tigar and Levy (n 13) 6.

¹⁷ Tigar and Levy (n 13) 313.

The course of events which are assembled as having given rise to the modern liberal legal regime were also, by no means, linear and stable. Scholars, such as Silvia Federici, report that conflict and organised resistance, in fact, formed turbulent waves of transformation in the transition to capitalism, and indeed ‘one of the bloodiest and most discontinuous’ process of change in history – to the extent that the expression ‘transition to capitalism’ is misleading.¹⁸ Violence, force and illegalities are widely described throughout this historical process as constitutive aspects of the legal methods of the emerging order.¹⁹ The eighteenth-century wave of enclosures in England were marked by intense resistance, shaping radical movements, with incidents recorded across centuries in England, from hedge-breaking leading to invasions of land by landless populaces, to the organisation of mass movements of occupation.²⁰ Nevertheless, historiography also indicates that not all resistance movements were opposing the accumulation of private property. Briony McDonagh and Carl Griffin, for example, retrace this history of land privatisation from the perspective of occupation movements, such as the Diggers and Levellers, as well as smaller-scale squatters’ settlements formed by the landless populace, many of which overlooked or even encouraged by landowners.²¹ In fact, the authors remark that resistance was manifested both by the dispossessed and the accumulators, with occupations and counter-occupations, to suspend and reassert common use rights. The typical polarisation between the propertied few and the propertyless masses, as if they unequivocally reflected clear-cut polarised interests between economic improvement and reactionary movements, is not only historically inaccurate; it also simplifies the role played by law and emerging legal institutions at the time as a facilitator of changes. To illustrate the ambiguity of law, Polanyi contended that anti-enclosure legislation, widely construed as legal efforts to ‘oppose progress’, is more accurately interpreted as a series of endeavours which slowed down the rate of change in a way that precisely enabled it, by avoiding an unsustainable and self-destructive pace.

Such legal practices progressively regulating the course of change have increasingly taken shape as a legal framework, and thus have increasingly been recognised as a proper ‘legal regime’. As a fundamental right in this framework, the concept of modern property paved

¹⁸ Silvia Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* (Autonomedia 2014) 62.

¹⁹ Roger Manning, *Village Revolts: Social Protest and Popular Disturbances in England, 1509-1640* (Clarendon Press 1988).

²⁰ Christopher Hill, as is widely known, also wrote about movements such as the Diggers, the Ranters, the Seekers and the Quakers as radical movements at the root of the English Revolution. Hill (n 12). See also Linebaugh (n 12).

²¹ McDonagh and Griffin (n 9).

the way for the entire social contract tradition and natural law theories of John Locke, Thomas Hobbes and their liberal contemporaries who forged a 'liberal-economistic model' of the public-private divide.²² Premised on the idea of one's labour added to the land, the labour theory of value by Adam Smith underwrote the emergent market economy by ascribing freed-up labour as the source of wealth of societies.²³ However, its historical roots disclose forcible and illegal acts at the foundations of capital, many of which were eventually legitimised by active State intervention and legislation – a contradiction to be sustained throughout the history of capitalism.²⁴

As we shall see in chapter 2, the typically punitive measures recorded in legislations from different places and times – and often remaining today – hold a crucial role in portraying the poor as the outlaws, transgressors of a contract of orderly sociability. A recurring example to mention from that point in history are the 'Bloody Laws' introduced in the sixteenth and seventeenth century and effective up to the early nineteenth century. Aimed at prescribing severe punishment and executions to transgressors, rogues and vagrants, the punitive cycle of class suppression worked, as Silvia Federici explains, at turning 'vagabonds available for local exploitation' into regimes of serfdom, enslavement and work discipline.²⁵ An epochal change in attitudes towards the poor had thus been initiated, with the diasporic movement of itinerant workers. The hordes of paupers that invaded the cities incited fear, horror, hatred and perceptions of danger in relation to the pernicious behaviour of crowds, which further led to the solidification of an image of the populace as morally degenerate, vicious rabbles – 'an ever-growing mass of immiserated people hurled into hopeless poverty [...] with its hostile attitude to the rest of society and brute sense of indignant entitlement'²⁶. Early modern political and economic theories, from liberal to critical traditions, reproduced these perceptions – from Thomas Hobbes' references to the threats of the *multitudo* to Karl Marx's reflections on the moral degeneration of the lumpenproletariat. Here lies a hybrid attitude (which will be explored in chapter 2), embedded in a hostility to the indolent poor, the fear of the dangerous poor, the fascination with the exotic poor, and ultimately hatred towards the ungrateful poor.

²² Jeff Weintraub, 'The Theory and Politics of the Public/Private Distinction' in Jeff Weintraub and Krishan Kumar (eds), *Public and Private in Thought and Practice* (University of Chicago Press 1997).

²³ David Harvey, *A Companion to Marx's Capital* (Verso 2010).

²⁴ The intrinsic bond between state and private property, contained in the logic of a free market is one of the foundational contradictions analysed by David Harvey in *Seven Contradictions and the End of Capitalism* (London: Profile Books 2014).

²⁵ Federici (n 18) 11.

²⁶ Frank Ruda, *Hegel's Rabble: An Investigation into Hegel's Philosophy of Right* (Continuum 2011).

By the nineteenth century the ownership model of private property had been concretised and had transformed poverty into an increasingly urban problem. But what happened to the bulk of the population which lived from the soil? We hear about them from Marx himself, when he established the elements to be taken into account in his analysis of the process of accumulating capital for its continuous valorisation, i.e., the concentration and centralization of wealth towards growing productivity on the one side and an increasingly impoverished and superfluous working population on the other.²⁷ Landed property turned into industrial capital, as the model of enterprise of the time, has formed ever-larger industrial towns populated by manufacturing workers, with mechanisation establishing specialisations and divisions of labour, and indeed new forms of class antagonism with poor workers and rich capitalists cohabiting the same urban landscape.²⁸ In this urban, industrial setting, the masses of paupers have been either proletarianized by managing to take up industrial work, or left to form the surplus population that is excluded from productive relations but certainly not left without a social function, as will be argued. Engel's observations of the situation of the working class in England also illustrate the population concentration as an effect of the centralising tendency of manufacture, the territorially separate slums and the degrading conditions of starvation, insalubriousness, disease and the self-righteous charitable attitude of the bourgeois towards the poor.²⁹

Although none of this is to suggest, from my part, a historically factual and uniform account of the origins of capital;³⁰ Marx's primitive accumulation – in fact, his response to the Smithian version of an idyllic capitalist origin – unravels a fundamental element that sets the process of accumulation in motion: its originary violence. The violence exemplified in Scotland's 'Highland clearances', the displacement of landless rural populations, the illegal acts against people's rights to the means of subsistence and production, the critical rates of urban growth, the livelihoods dependent on wages, the immiseration of living standards and the unemployment of the urban poor in general, are to be found in many other instances of expropriation and privatisation of land across the globe and in different periods of time. This is particularly relevant to this thesis, as I shall work with the

²⁷ Karl Marx, *Capital: Volume I* (first published 1867, Penguin Classics 1990).

²⁸ On the industrial urbanisation, see: Rosemary Sweet, *The English Town, 1680-1840: Government, Society and Culture* (Routledge 2014).

²⁹ Friedrich Engels, *The Condition of the Working-Class in England* (first published 1845, Progress Publishers 1977).

As will be described in chapter 2, many other writers at the time took up the task – indeed forming a literary movement – of observing, surveying and taking lodge amidst the poor to depict their living conditions.

³⁰ David Harvey is also categorical in stressing that Marx's narrative of the increasing trend towards impoverishment of the working class is contingent on Marx's assumptions about a 'normal way' of capital accumulation. Harvey, *A Companion to Marx's Capital* (n 23).

continuous re-instantiation of violence in poverty making as a premise, particularly the violence of knowledge, classification, regulation and intervention.³¹ In order to do this, I draw on Federici's interpretation of the concept as assembling the 'historical and logical conditions' of capital which endure in continuing practices of primitive accumulation in any given phase of capitalist globalisation, as its precondition.³² David Harvey's notion of accumulation by dispossession also frames this continuity in a useful way as it decentralises the proletarian, urban and industrial aspects as the sole or main sphere of capital production (and resistance).³³ It also decentralises the sphere of production as the moving force of capital, and sides it with other circuits of accumulations and dispossessions such as that of trade and of finance. Finally, by conceiving the formation of poverty as detached from the production process and labour relations, it can also work at destabilising the differentiations between the working poor and the wretched poor, the proletariat and the lumpenproletariat, the deserving and the underserving poor. I will be evoking these gestures of violence in poverty's production throughout the thesis by signalling that it is in the violent gesture of dispossession towards accumulation that entirely different modes of living come to be unified as the general designation of 'the poor' of the world. The production of poverty is here seen as a positive/active injustice upon populations and territories. Again, Silvia Federici's historical investigation of the social position of women is relevant to this point as she demonstrates how capitalism is mostly productive of scarcity and accumulative of differences and divisions.

In spite of the element of violence having been exposed very early on in theories of the origins of capital, 'epiphenomenological' interpretations of poverty predominated in the twentieth century social sciences, where poverty became a consolidated object of scientific inquiry. Various theories have been forged attempting to explain poverty, its causes and its required responses, and forming the conjuncture of the circuits that I am investigating in this thesis – to know and to fix poverty.³⁴ As a rule, these theories taxonomize populations and territories into variables to explain poverty, namely in terms of people's needs *versus* the environment's resources. On the one hand, within the population-centred theories that have thrived as both scientific and common-sense

³¹ As will be discussed, with critical geography, property is continually enacted and enforced through violence which, far from being exceptional, is fundamentally articulated and justified by law. See Nicholas Blomley, 'Law, Property, and the Geography of Violence: The Frontier, the Survey, and the Grid' (2003) 93(1) *Annals of the Association of American Geographers* 121.

³² Federici (n 18) 63.

³³ David Harvey, *A Brief History of Neoliberalism* (Oxford University Press 2005).

³⁴ On how the fixing poverty has become a challenge shared by science and politics, for example: Jeffrey Sachs, *The End of Poverty* (Penguin Group 2005).

consensuses, Thomas Malthus is the most prominent precursor, with his theory that population growth in the face of limited food supplies will eventually necessitate measures of demographic control. Other widely accepted explanations consider issues of demographic explosion, overpopulation, rural exodus and migration as causes of hyper-urbanisation, where cities are unable to support the population increase and the labour market is rendered unable to absorb such flows of population.³⁵ Needless to say that these approaches have been criticised for laying the blame of the 'urban crisis' on the impoverished 'masses' themselves.³⁶ The territorial emphases, on the other hand, examine poverty in terms of its milieu. They have been expressed in terms of geographic and climate factors, contrasting abundance and scarcity, as well as biological predisposition, contrasting diligence and idleness. They also concern cultural conditions of poverty,³⁷ degradations of urban life, and later on a global scale, socioeconomic dualism with which the poor resist progress and economic improvements.³⁸ These approaches have typically been criticised for their deterministic and moralising views which portrayed poverty as demoralisation and, at an extreme, supported scientific racism.

Instead of revisiting such theories, tracing a history of ideas that has already been so deeply investigated,³⁹ I would like to review the variables of population and territory not as causes but as effects, that is in terms of how they are continually affected by the legal regime of property and modulated into in the 'image and likeness' of poverty. The so called proletarianization of populations creates the paupers, rogues, vagabonds, vagrants, tramps, beggars and robbers. The expropriation of the soil and continual expulsions form slums, ghettos and informal settlements. It is in these affected shapes and forms, taken as pure or natural samples, that the abovementioned theorisations try to find in them general and causal explanations of poverty. I will later argue (in chapter 2) that legal responses to poverty facilitate and consolidate such images of poverty, gathering around consensuses, turning scientific formulations into ontological realities – what will later (chapter 3) be termed a shift from quantification to qualification. What is relevant at this

³⁵ For example, see in John Friedman and Tomas Lackinton, 'Hyperurbanization and National Development in Chile: Some Hypotheses' 1967 2(4) Urban Affairs Quarterly 3.

³⁶ Milton Santos, *Urban Poverty* [In Portuguese: *Pobreza Urbana*] (first published 1978, Edusp 2013).

³⁷ Oscar Lewis, 'The Culture of Poverty' (1966) 215(4) Scientific American 19.

³⁸ Examples of which are: Julius H Boeke, *Economics and Economic Policy of Dual Societies as Exemplified by Indonesia* (Institute of Pacific Relations 1953); Richard S Eckaus, 'The Factor Proportions Problem in Underdeveloped Areas' (1955) 45(4) The American Economic Review 539.

³⁹ Martin Ravallion, *The Economics of Poverty: History, Measurement and Policy* (Oxford University Press 2016); Pete Alcock, *Understanding Poverty* (Palgrave Macmillan 2006); Alice O'Connor, *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth-Century U.S. History* (Princeton University Press 2002); Santos (n 36).

early stage of the argument is to demonstrate how the concept of modern property and the corresponding modern legal infrastructures effectively produce poverty. Surely the political socioeconomic interpretation of poverty as a by-product of wealth – the accumulation of misery that corresponds to the accumulation of wealth, as Marx wrote – is crucial for understanding the machinery of capital.⁴⁰ What I am arguing does not dispute this perspective but refutes readings that turn poverty into a secondary construction, a mere consequence of the accumulation and concentration of wealth. Integrating poverty as an active formation, one that plays a distinctive role in how social interactions are organised, allows for a series of other insights about the legal implications of poverty as an injustice upon populations and territories. What is the ‘nature’ of such injustice? I describe it in terms of the spatial and temporal configurations that frame populations and territories in a way that will later be discussed as legal-aesthetic modulations.

1.2 Global expansion of poverty

Yet, a substantial part of this legal history of property and propertylessness is missing. The origins of modern property law, thus far told with Europe situated at its centre is, nonetheless, a global history. The European historiography – both classic and critical – often presupposes an understanding of the colonial enterprise as a model of assimilation and transference, opening up new frontiers for accumulation through the transplant of European modernity (and private property) into new territories. The English-pioneered transformations recounted in the previous section are frequently suggested to be a ‘hotbed of the making of the tools of colonial governance’.⁴¹ This narrative accounts for a version of colonialism which established the geopolitical divisions of the world still in place today: the centres and the peripheries, or perhaps more problematically the ‘Global North’ and the ‘Global South’. Although this narrative plays an important role in the project of demystifying the brutal binary that installed a supposed European universality and its subaltern world, it is nonetheless a simplification.⁴² It conveys a linear and unidirectional chain of causation which undermines the complex threads of imperial expansion and colonial conquest, and misguides an interpretation of what is commonly termed ‘capital expansion’ in the world today.

⁴⁰ Marx (n 27) 798.

⁴¹ As is the case in McDonagh and Griffin (n 9) 10.

⁴² Important critics of the European universality in these terms are Gayatri Chakravorty Spivak, *In Other Worlds: Essays in Cultural Politics* (Routledge 2006); Peter Fitzpatrick, *Modernism and the Grounds of Law* (Cambridge University Press, 2001).

Instead, the history of modern private property, and of Western modernity for that matter, is inherently colonial. Rather than an expansion simply resulting from an overflow of enlightened, sovereign power and of capital requiring new territories and markets, colonies and empires were mutually constructed as history unfolded. The formation of nation-states, of liberal law and of colonial rule are fundamental and mutually implicated components of what came to be called modernity and capitalism. For example, the elementary process of demarcating borders of both nation-states and of extended territories in the early modern period was never assertive and unambiguous, as Tamar Herzog describes in the case of Iberian empires.⁴³ Territorial delimitations in both colonies and in metropolises – in the ‘new’ and the ‘old world’ – were gradually defined by land appropriations and the rites of conflict for land possession, instead of what is commonly believed to have predominantly been a fixture by state treaties and papal bulls within sovereign and expansionist ventures.⁴⁴ That is to say, like the fences enclosing property in land, it all started with a disputed and negotiated trace on the map, or more precisely a meridian line of demarcation cutting the world in half in 1494.⁴⁵ From then on, the world’s borders and territories continued to be redesigned, disputed and reclaimed.

It goes without saying that violence is a key component of the global formation of property and propertylessness. The conflicts and treaties which led to the Westphalian system of sovereign nation-states along with the long history of dividing territories in colonial lands have long been narrated as an indisputably violent history of exploitation, appropriation, domination, genocide and enslavement.⁴⁶ The point here, however, is that the violent gestures transcend conflicts and unilateral authority and indeed reveal a process of mutual determination which not only defined the overseas dominated territories but also the very centres of their production. Therefore, this history of violence is one of knowledge production and world-making. It has been established by critical scholarships that former colonies have been (and indeed continue to be) largely administered as legal, economic

⁴³ Tamar Herzog, *Frontiers of Possession: Spain and Portugal in Europe and the Americas* (Harvard University Press 2015).

⁴⁴ This use of Herzog’s legal history, which presents territorial claims to property as a prevalent force defining the nation-State is not to undermine that later partitions of the middle east and of African countries were arbitrarily and normatively defined by imperialist powers and its bureaucrats, disregarding territorial occupations by different ethnic, religious and linguistic groups. On this point, see Alberto Alesina, Janina Matuszeski and William Easterly, ‘Artificial States’ (2011) 9(2) *Journal of the European Economic Association* 246.

⁴⁵ The Treaty of Tordesillas initially divided the New World between the Portuguese Empire and the Spanish Empire. See: André Gunder Frank, *World Accumulation, 1492-1789* (Palgrave Macmillan 1978).

⁴⁶ See Alexis J A Nakagawa, ‘Cannibal Laws: The Juridical Forms of Conquest and the Emergence of International Law’ (PhD Thesis, University of London 2019).

and technological laboratories.⁴⁷ In the next chapter I attempt to raise this two-way flow of determination by indicating that definitions of poverty (knowledge and intervention), typically attributed to Europe and North America as centres of production, are more adequately viewed as historically formed by using the rest of the world as a laboratory for experiments, methodological refinement and not-so-randomised controlled trials which may or may not rebound on the populations and territories of these very centres. Hence, it is important to recognise how experiences in colonies have shaped the world and set the tone for modern sociotechnical innovations.

Many studies demonstrate how legal innovations have been tested in colonial territories before being implemented in Europe. For example, by highlighting the role of colonial formation in the origin of the consolidation of modern property rights, Sarah Keenan explicates the innovation of the Torrens System of land title registration in the late 19th century, initiated in colonised territories under the system common law (Australia, New Zealand and then Canada) before being incorporated into the metropolis (England). In fact, Keenan remarks, dominium of colonial territories was a factor which created the urgency to change land property titles, whereas the British aristocracy relied on the system of title deeds (based on the retrospective history of physical possession of land) and resisted the change to acts of registration. It was the need to secure ownership of ‘new’ land, deemed empty and with no history of possession, that propelled a new management system beyond the Common Law – thus legally erasing local ownership histories.⁴⁸ Grounded on a legal fiction, title registration is premised on future values of land being treated as present facts, enabling trade’s acceleration. Important insights arise from this configuration, of which two are particularly valuable in this thesis.⁴⁹ First, titles seemingly represent reality but actually manufacture reality as seemingly natural, i.e., they create what they purportedly describe. Second, the Torrens system only reflects the objects that are brought to the registry, rendering unregistered relationships with land inexistent on records, invisible to the ‘legal view’. The Torrens system also exemplifies how legal orders work to produce differentiated categories of populations and territories. By establishing a

⁴⁷ For example, Adam Moe Fejerskov, ‘The New Technopolitics of Development and the Global South as a Laboratory of Technological Experimentation’ (2017) 42(5) *Science, Technology, & Human Values* 947. Also, with a more specific emphasis on legal history, Nasser Hussain, *Jurisprudence of Emergency: Colonialism and the Rule of Law* (University of Michigan Press 2003).

⁴⁸ Sarah Keenan, ‘Smoke, Curtains and Mirrors: The Production of Race Through Time and Title Registration’ (2017) 28(1) *Law and Critique* 87.

⁴⁹ Although they are not the focus in this chapter, these insights inspire the discussion that I develop in chapter 3, where I explore poverty quantification as effecting qualification, and chapter 4, where I discuss the legal uses of poverty inscribed data as poverty facts.

temporal order, which effaces history and looks forward to a 'colonised future' of speculative market transactions, the operations of title registry produce social categories in terms of backwardness and progress, primitive and advanced, which 'materialise as race'.⁵⁰

Private property and property rights have thus historically been inaugurated in the context of both liberal state formation and colonial expansion, establishing temporal-racial divisions.⁵¹ In that regard, it is often taken for granted that European claims to universality developed in the colonial era – and the establishment of a modern narrative of progress relegating occupied territories and peoples as backward – was an operational effect, rather than a cause, of the idea of progress and development, i.e. a linear spectrum in which 'moderns' are naturally situated in the lead.⁵² Social categorisation and racialisation are thus intimately connected to an evolutionist perception of time and history which assigns primacy to certain categories in contrast to the primitivism of others by means of legal techniques.⁵³ To prefigure the argument that I will develop in the next chapters, legal techniques, as such, operate in the mediation between knowledge and the concrete manifestations which confirm the knowledge. In the practices of knowledge production and the visualisation of poverty, legal techniques do the work of selecting (I will call this sampling) in the material world that which fits the general, pre-established concept of poverty and eliminating that which has been left out of the frame, thus activating a binary code to ascribe that which is seen and that which is not, that which will be acknowledged by law and that which will be deemed illegal or indeed inexistent.

It is also within the capitalist-colonial temporal ordering that the correlation of race and poverty is substantiated. As established above, the regime of property is premised not only in the accumulation of wealth but also in the accumulations of difference,⁵⁴ but these are not limited to the distinction between property owners and the propertyless dispossessed. Such differences affect the territorial and populational configurations of the world by separating (or ordering into spectrums) the civilised and primitive; cultured and

⁵⁰ Keenan (n 48)

⁵¹ What Brenna Bhandar defines as 'racial regimes of ownership'. Brenna Bhandar, *Colonial Lives of Property: Law, Land and Racial Regimes of Ownership* (Duke University Press 2018)

⁵² See also Emily Grabham, *Brewing Legal Times: Things, Form, and the Enactment of Law* (University of Toronto Press 2016).

⁵³ For example, Nadine El-Enany analyses British immigration law as sustaining a global racial order in the contemporary colonial space, based on race as an ordering principle. Racial ordering, in that regard, is a process of legal categorisation that renders entire populations 'readable as inferior' to the Western world. Nadine El-Enany, *Bordering Britain: Law, Race and Empire* (Manchester University Press 2020).

⁵⁴ An expression I take from Silvia Federici as she addresses gendered differentiation in primitive accumulation by raising its inherent accumulation of differences and divisions. Federici (n 18) 63.

native; enlightened and savage; white and non-white, to name a few markers of differentiation.⁵⁵ The inscription and arrangement of difference is at the heart of the emergence of the modern episteme, as Michel Foucault notoriously excavated – the early formative practices of human sciences inherited from the classical taxonomic formalisation of categories which remain operative to measure and manage difference.⁵⁶ In that light, Denise Ferreira da Silva defines raciality as an onto-epistemological frame of ordering, a ‘political-symbolic toolbox’ that ‘produces the racial subaltern’ as well as the ‘the juridical architectures and procedures of the global present’ which distinguishes the persons and places of the proper economic subject.⁵⁷

In a similar vein, Oscar Guardiola-Rivera remarks on the role of economic imperatives in determining parameters of human regulation, by which the northern, western legal-political tradition is the unique referent – the very standard of humanity in contrast to which other normative cosmologies are measured. In reference to Claude Levi-Strauss’s recounting of the investigation into the nature of the Amerindians, Guardiola-Rivera indicates how ‘fact-finding commissions’ determined their incapacity to live as autonomous economic agents – based on their reported lack of work ethics, absent notions of private property, not to mention cannibalistic tendencies – thus establishing a preponderant factor in their proclaimed status of (non)humanity.⁵⁸ Similarly, the anthropologist Eduardo Viveiros de Castro recounts the formation of the category ‘natives’ from the interruption of the organic relations between indigenous peoples and land. In that account, the ‘experts of generalisation’ – Europeans, whites, yankees, westerns, moderns – transcendently unify peoples into a general category of native in order to situate them within a continuum of transfiguration into ‘poor’. The conceptual figuration of native, in other words, enables their posterior figuration as citizens, as poor citizens.⁵⁹ This is what I meant in the introduction to this thesis by stating that all the poors of the world, today and in the past, are nothing but an essentially unified entity under the

⁵⁵ As is the case, from Federici’s own perspective, of gender differentiation, or what today is termed the feminisation of poverty. Federici (n 18).

⁵⁶ Michel Foucault, *The Order of Things* (Vintage Books 1994).

⁵⁷ Denise Ferreira da Silva, ‘No-Bodies: Law, Raciality and Violence’ (2014) 9(1) *Meritum* 132.

⁵⁸ Oscar Guardiola-Rivera, ‘Human Rights and Latin American Southern Voices’ in Upendra Baxi, Christopher McCrudden and Abdul Paliwala (eds), *Law’s Ethical, Global and Theoretical Contexts: Essays in Honour of William Twining* (Cambridge University Press 2015).

⁵⁹ Viveiros de Castro uses, for this argument, the term ‘indians’ (*Índios*) as per the mythology of the conquistadors who encountered the new world on their way to India. I translate the term as ‘natives’ in reference to one of the terms used in English which carries a similar derogatory tone. ‘*Índios*’ are not simply indigenous, as in originary, autochthonic peoples, but ‘natives’ – a historically charged totalising category. Eduardo Viveiros de Castro, ‘The Involuntaries of the Homeland: Praise to Underdevelopment’ [In Portuguese: ‘Os Involuntários da Pátria: Elogio do Subdesenvolvimento’] (Caderno de Leituras 65, Chão da Feira 2017).

totalising marker of ‘the poor’. The unifying moment is indeed that of the gaze, the perspectivist encounter in which the nonpoor sees and modulates the poor as difference. Here lies a crucial point that inspires the peculiar approach that I adopt in this thesis. To challenge the epistemic violence of Western, modern thought – that which frames poverty as an inherent lack – is to bring forth a perspectivist reading of encounters that organise worlds.⁶⁰ That is to say: rather than stable identities (poor and rich), in this thesis I speak of mutually implicated positionalities, i.e., the position seen as poor and the position of the nonpoor who gazes at the poor. This encounter, I argue, is fundamentally aesthetic, guided by a foundational gaze. This is the argument to which I will get in chapter 5.

Thus, it is from the colonial encounter that modern property law has been shaped to secure exclusive ownership – exclusive to a determined modern economic subject and excluding a very well defined unsuitable economic subject (unfit, indolent, work-shy, frivolous, subprime persons and nations). In no time, the subprime would become the precise target of profitable economic investments predestined to failure and unpayable debts.⁶¹ Again, that the colonial encounter formed modern private property and property rights is not a loose statement meant to redress the discursive injustice of the colonialist narrative of history – which is a valid project nonetheless. Instead, it refers to the concrete ways in which the legal and political structures of both colonies and empires were historically formed. Marxist scholars have long made this point, under the indication that capitalism is a global project, which is to say, capital’s planetary expansion is the factor which allowed it to coalesce as a mode of material, cultural and intellectual production in the first place.⁶² Instead of a consequence, it is its originating drive. In other words, without an international division of labour, i.e., if left limited to the western-European world, it would not have been conceivable for this mode of production to advance and reproduce itself. I have explained that I do not set out to narrate this history through the lenses of capitalism because capitalism itself is, here, construed as historically emergent,

⁶⁰ The contrast between this logic and the Amerindian perspectivist and multinaturalist approach formulated in Viveiros de Castro’s anthropology, is usefully explored in Bethânia A Assy and Rafael Rolo, ‘The Inventive Embodiment of Oneself from the Perspective of the Other: Notes to a Decolonial Anthropophilosophy in Viveiros de Castro’ [In Portuguese: ‘A Concretização Inventiva de Si a partir da Perspectiva do Outro: Notas a uma Antropofilosofia Decolonial em Viveiros de Castro’] (2019) 10(4) *Direito e Práxis* 2367. It is based on a ‘radical performative ethics’, proposed by these authors against a transcendent ‘logic of lack’ in Western thought, that I build my argument here, seeking to deconstruct the essentialising conceptualisation of poverty.

⁶¹ Paula Chakravartty and Denise Ferreira da Silva, ‘Accumulation, Dispossession, and Debt: The Racial Logic of Global Capitalism—An Introduction’ (2012) 64(3) *American Quarterly* 361.

⁶² David Harvey, ‘Globalization and the “Spatial Fix”’ (2001) 2 *geographische revue* 23. Also in Federici (n 18).

rather than a motor of history.⁶³ A much more interesting endeavour seems to be to inquire what the global perspective of such historical unfoldings can offer in terms of critique. As Frantz Fanon famously remarked 'In the colonies the economic infrastructure is also a superstructure. The cause is effect: You are rich because you are white, you are white because you are rich. This is why a Marxist analysis should always be slightly stretched when it comes to addressing the colonial issue'.⁶⁴

Poverty manifests in the territorial and populational aesthetic distribution at the same time that it involves the distribution of material means. Whilst the material grounds of poverty are widely explored in the literature of poverty research, I would like to explore the aesthetics of poverty, its formative configurations, its appearances and disappearances in space and time. To that effect, I claim that law's spatial and temporal orderings and imaging are at the heart of the aesthetic dimensions of poverty. The same meridian trace that in the late fifteenth century split the world between two empires and inaugurated a whole new era of colonial occupation – despite its permanent redefinition into curves, cuts and nodes – continues to draw today new territories and new frontiers. The most meaningful global divisions at present divide north and south, west and east. Yet, as we know, these are fluid in order to redress the 'geographic injustices' of nations awkwardly positioned on the globe. The 'Global South', euphemism for the peripheries of global capitalism, manifests in the most inescapable ways the abovementioned sustained historical and logical conditions of capital. Continuities between past and present surpass any sense of legacy of effects and are, in fact, active and operative instantiations. For example, Torrens-like titled land registration systems continue to be persistently promoted by multilateral financial institutions such as the World Bank and the IMF in the name of a model of prosperity, wherein property ownership becomes the key to opening up land markets to international investments – and thus generating further global problems that such institutions will themselves attempt to tackle.⁶⁵

Indeed, in the more recent history of globalisation and market integration, the proprietary gestures of enclosure are continually restaged as another 'great transformation' that takes place in the world today. Kari Polanyi Levitt termed it 'the great financialization', as

⁶³ Which is not to say that it cannot be both. However, as I have indicated above, my attempt is precisely to eschew a perspective of capitalistic poverty from within the capitalist frame of analysis as my own contribution to the literature that I work with and which largely develops such analysis.

⁶⁴ Frantz Fanon, *The Wretched of the Earth* (first published 1961, Penguin Books 2001) 31.

⁶⁵ Keenan (n 48).

continuation of Karl Polanyi's aforementioned account of the birth of market economy.⁶⁶ It is a distinctive feature of financial capitalism, as David Harvey says, that rent extraction supersedes productive capital surplus value.⁶⁷ Under this model of accumulating wealth, i.e. the unproductive rentier capital of speculative profit, individual ownership is still the fundamental force of dispossession and territorial exclusion. Broadly speaking, financialization is the term used to designate the ongoing expansion of the financial market into domains of everyday life, which includes the financial inclusion of populations and territories hitherto 'unbanked', by means of social policy and international development aid provided by multilateral financial organisations or corporate foundations (with pension schemes, security funds, microloans, microcredit and micro-insurance).⁶⁸ I will address this reorientation of microfinance as a response to global poverty in chapters 2 and 4. For the time being, it suffices to indicate that in the so-called 'age of finance', new models of global dispossession, displacement and social categorisation are also reinvented – for example by the facilitation of rent-seeking practices and debt dependency. If, on the one hand, novel practices of expropriation are configured primarily through financial operations, on the other hand, old classificatory and space-distributive dynamics continue to be active, as new forms of the same logic open new frontiers of investment.

It is here that the economically dispossessed – deemed high-risk when measured against the rational, self-interested, industrious economic subject – becomes a profitable target of finance. Denise Ferreira da Silva and Paula Chakravartty address the 'unpayable debt' as a profitable investment in segments made unable to pay back their debts, by means of high-interest microfinance loans, what Silvia Federici termed the 'debt economy' and the production of mass indebtedness.⁶⁹ By assimilating the propertyless and subprime borrowers into renewed versions of categorisation and displacements – regimes of debt, foreclosure, austerity, profiling, redlining – the colonial logics of finance reveals itself as, once again, taking racial differences as an ordering measure and determinant factor in risk calculations.⁷⁰ This logic was made brutally evident in the so-called subprime crisis in the USA, which disproportionately affected black and Latino populations at the same pace that it blamed such populations for the crash. It is the same logic that has operated in

⁶⁶ Kari Polanyi Levitt, *From the Great Transformation to the Great Financialization* (Zed Books 2013).

⁶⁷ David Harvey, *Seventeen Contradictions and the End of Capitalism* (Oxford University Press 2014) 241.

⁶⁸ What Servaas Storm characterised as 'the financialization of everything', in Servaas Storm, 'Financialization and Economic Development: A Debate on the Social Efficiency of Modern Finance' (2018) 49(2) *Development and Change* 302.

⁶⁹ Silvia Federici, 'From Commoning to Debt: Financialization, Microcredit, and the Changing Architecture of Capital Accumulation' (2014) 113(2) *South Atlantic Quarterly* 231.

⁷⁰ Chakravartty and Ferreira da Silva (n 61).

‘structurally adjusted’ Africa, Latin America and Asia since the 1980s – profiting from ‘lending money to persons and nations precisely because they would *not* be able to pay it back’.⁷¹ Profiting from those deemed economically unsuitable indeed seems to be an operative and overarching norm of global capital.⁷² It is present in the predatory lending addressed by Ananya Roy, which charges high interest rates and enforces repayment upon the world’s poorest⁷³ and under which financial failure often incurs more than displacement, but indeed violence and expulsion. ‘Racial banishment’ is the concept coined by Roy to describe a legally-sanctioned violence of ‘expulsion from everywhere’ which permanently marginalises black, brown and poor bodies and communities from the urban landscape, as a historical foundation to property.⁷⁴

As will be discussed, financialization is also the leading-edge principle behind international agendas to alleviate poverty, having upgraded ‘financial inclusion’, particularly via microcredit to promote ‘inclusive economic growth’, to the status of a human right. Philip Mader examined the mechanism through which microfinance translates poverty into financial relations, which ends up reshaping the very concept of poverty as lack of finance.⁷⁵ In other words, financialization of poverty entails an interpretation of it as a financial problem – again, to be fixed – and its alleged solution would rest in renewed models of extraction and accumulation of wealth. The upgraded ‘satanic mill’ of our times is informed by a global policy model that promotes purchase via credit, micro-finance and the intervention of international financial institutions. Rather than a historical fact in the origins of capitalism, a form that enabled the unfolding of global history as we know it, property is a continuing technological operation, a logic that sustains the continuing process of its own reproduction and expansion despite its wide-ranging transformations.

Besides the colonial logic that is continually re-enacted (rather than simply remaining or leaving a legacy), another point of historical clarification that needs to be raised in this section refers to the formation of urban poverty. The typical formula available in the historical narratives above, is that industrialisation led to urbanisation, along with the formation of the masses of the ‘urban poor’ who migrated from rural areas.⁷⁶ It is common

⁷¹ Chakravartty and Ferreira da Silva (n 61) 364.

⁷² Guardiola-Rivera (n 58), recounts of Amerindians’ said incapacity of living as autonomous economic agents.

⁷³ Ananya Roy, *Poverty Capital: Microfinance and the Making of Development* (Taylor & Francis 2010).

⁷⁴ Ananya Roy, ‘Racial Banishment’ in Antipode Editorial Collective (eds) *Keywords in Radical Geography: Antipode at 50* (Willey Blackwell 2019).

⁷⁵ Philip Mader, *The Political Economy of Microfinance: Financializing Poverty* (Palgrave Macmillan 2015).

⁷⁶ This is a typical albeit not undisputed narrative of the ‘modern’ European city, as can be found in Kirsten Campbell, ‘The City of Law’ (2013) 9(2) *International Journal of Law in Context* 203.

to see this narrative adapted to the postcolonial world which, despite an alleged historical delay, also faced processes of urbanisation related to private property regimes of land and growing industrial labour. Thus positioned in a line of progression (or civilisation or evolution), the massive contingent of poor communities settled in precarious, overcrowded, self-built and informal settlements in cities across the 'Global South' – 'slums' to use a term which is now in decay – are construed as performing their very own, though tardy, urban revolutions, following Europe's lead centuries ago. Nonetheless, urbanist Raquel Rolnik observes that intensive urban growth – accompanied by precarious housing conditions and indeed housing deficit – in peripheric countries in the 1980s and 1990s is not quite connected to industrialisation but indeed to a trend of retracting public spending, particularly affecting social housing policies across the 'Global South'. Much of this trend has been driven by international programmes of economic restructuring based on fiscal adjustments and austerity in close connection with financial and rentier capital expansion premised on land speculation.⁷⁷ Although informal, irregular and often criminalised, such settlements have been the norm in accommodating the urban poor since the birth of the first industrial towns in Victorian England to today's 'urban boom' and sustained rural exodus.⁷⁸ Yet, differing from industrial town slums – which have had their own share of clearance and annihilation – Rolnik explains that the transformation of private property into financial assets engenders a new role for the land occupied by the poor, that is to function as reserves for rent extraction, permanently at risk of being taken up by financial capital. This, in turn, engenders renewed dynamics of continual territorial displacement of impoverished populations, via a global model of urban development premised on evictions, social cleansing, stigmatisation of territories and incarceration or extermination of people. The advancement of a global model of land and housing financialization that prioritises individual, private, registered freehold property over other forms of tenure is premised both on the economic value of land and on the expectation of future revenue that a property title secures for speculation. As mentioned above, this model engenders renewed dynamics of tenure insecurity – if one happens to be a non-owner in a world of owners⁷⁹ – and a state of 'permanent transience' of informal settlements occupying urban land with the constant risk of the territorial asset being despoiled.⁸⁰

⁷⁷ Raquel Rolnik, *Urban Warfare: Housing Under the Empire of Finance* (Verso 2019).

⁷⁸ Mike Davis, *Planet of Slum* (Verso 2006).

⁷⁹ Baron (n 3).

⁸⁰ Rolnik (n 77) 114.

The periphery of global capitalism, however, is seen as still struggling to catch up with the incomplete project of modernity, and in this view lies the self-asserted mission of international organisations (multilateral financial institutions and corporate foundations) to sponsor modernising projects in the ‘developing world’, by re-instantiating a colonial governance which has been rebranded as state-building. The position I sought to convey in this section, however – following important scholars from those corners of the world⁸¹ – is that the peripheries of global capitalism are part and parcel of the Western modern developmentalist project. Again, in the contrasting view of the obverse side, the so-called ‘Global South’ is the mirrored flipside of the ‘Global North’, i.e., the dispossession of one matching the accumulation of the other. Ultimately, my argument here is that property is indeed the organising principle of poverty in global capitalism. But property as such is to be understood in its aesthetic terms which evoke sense-making and world-making components: spatial, temporal, geopolitical, economic, racial, gendered, exclusionary, segregational, and violent gestures. Poverty, in that light, is not simply the negative effect of property (a pure lack or misdistribution of material resources). Poverty is a positive construction, a positive ‘wrong’ which accompanies the modern, liberal conception of property and enables its production. A reiteration of displacements and social categorisations takes place – from the enclosures of the sixteenth century; the colonisation of the ‘new world’ which formed the peripheries of the world; the industrialisation of the eighteenth century which formed masses of urban poor; all the way to the financialization of the cities and of its ‘unbanked’ masses. I will now loon into the spatial configurations of urban poverty from this perspective of an active and violent injustice that modulates and territorialises poverty at the margins of the city.

1.3 The violent gestures of poverty production: modulations of territories and populations

I have established that the ‘capitalistic’ explicative system of poverty is built on the modern concept of property, the causes of which diverge according to interpretations and selections of predominant variables, as established above. Poverty research, it has been introduced, predominantly refers to poverty as a form of propertylessness and its variations of lack of individually and exclusively owned material resources (lack of income, lack of savings, lack of credit, and so on). As a consequence, responses to the ‘problem of poverty’ go so far as to promote transference of resources in various forms – ranging from

⁸¹ In reference to fn 2 in this thesis’ introduction.

direct material and food provision to monetised forms of social benefits, cash transfers and, more recently, microcredit to help the poor to find their own way out of poverty. As I shall argue now, these responses are attributed to the modern objectification of property into a thing of possession, a material object that either one owns or one does not.⁸² Under this token, even for critical approaches, poverty stands as a constitutive outside to property, its epiphenomenon as discussed above, which typically evokes moral theories of fair distribution in response.⁸³ But if we take property to be a social relation mediated by legal techniques – formed by a series of social preconditions and formative of a series of concrete effects – it becomes clear how the notion of ‘lack’ naturalises dispossession in the image of ‘poverty’ as a problem of misdistribution. In this thesis as a whole, I am particularly interested in the effects of such a naturalisation that maintains an ‘ontological structure of a pure *I*, and a pure *other*’ and works towards assimilation, integration, and depoliticised inclusion⁸⁴. Yet, instead of revisiting the important debate on political subjectivity embedded in experiences of injustice, I analyse the abovementioned effects of naturalisation (or ontologisation, essentialisation) as, first and foremost, aesthetic effects, which subsequently lead to a series of other kinds of social, economic and political effects – that is to say, the latter depend on how poverty is seen in the world in the first place.

In order to lay the groundwork for this investigation, in this chapter I aimed to reconstitute the link between poverty and property in regard to the other aspects that compose property and, accordingly, also compose poverty. I am referring to the abovementioned ‘historical and logical’ preconditions concerning property’s originary violence.⁸⁵ In that case, rather than a passive lack, poverty ascription works as an active function of propertylessness. But, then, what is propertylessness if not simply a material lack? I underlined two elements that are active in the continual enactment and enforcement of property: displacement and categorisation. These elements encapsulate a series of acts of violence typically found in accounts of the transition from feudalism to capitalism, such as evictions, expulsions, deprivations, segregations, alienations, demarcations and classification. It has been established that these acts are not secondary in the formation of private property. They are, rather, constitutive and active components of property.

⁸² On the objectification of property relations, see for example: Blomley, ‘Territory of Property’ (n 14) 599.

⁸³ A notorious example being Amartya Sen, *The Idea of Justice* (Penguin Books 2009).

⁸⁴ Bethânia A Assy, ‘The Subject of Discrimination: Factual Life, Empowerment, and Being Political’ (2018) 13 *La Revue des Droits de L’Homme* 2.

⁸⁵ Federici, *Caliban and the Witch* (n 18).

Moreover, they are not historical events, left in the past. Instead, violent gestures are constantly re-enacted in every proprietary dynamic occurring in global capitalism today.

Thinking in aesthetic terms, displacement and categorisation mobilise two compositional elements: population and territory. Poverty's displaced spatiality (its territorial composition) and classificatory scheme (its populational composition) combine as complimentary features irreducible to each other. Drawing from critical legal geography, territories and populations present the material inscription – in the soil and in bodies – of immaterial social relations.⁸⁶ The culmination of the argument that I develop in this thesis will bring us to these mundane materialities in chapter 5. As such, immaterial social dimensions are materially implicated and become materialised by being carved into soil and bodies. As such, populations and territories of/in poverty are created and modulated at the same pace as poverty emerges as an existing condition in the world – the condition materially displayed and evidenced precisely by such modulated populations and territories. This is the point at which knowledge practices transition into intervention practices, with a particular contribution from legal techniques that will be explored in the next chapter. Population and territory provide the material base of poverty upon which law further deploys its techniques of visualisation.⁸⁷ Whilst the workings of legal techniques entail compositionality and governance – with both sociotechnical and biopolitical effects, as Brighenti remarks – I am interested in compositionality, as it evokes legal-aesthetic modulations of territories and populations of poverty.⁸⁸ I will later explore how this legal composition is instrumental to the tasks of knowing and intervening upon poverty in the world – i.e. to the crafts of science and politics.

Thus, poverty comes to be the result of a legal ascription of a poverty form and content. As a legal composition, poverty is formed through legal techniques that shape, arrange and contain populations and territories. Nicholas Blomley's work on the violent geographies of property is useful to elucidate this point.⁸⁹ Property follows what Blomley describes as a topographical logic that delineates shapes into surfaces, mediated by visual inscriptions

⁸⁶ To develop this point, I draw on Andrea Mubi Brighenti's definition of territory as the point of convergence between the material and the immaterial, between spaces and relationships. Andrea Mubi Brighenti, 'Lines, Barred Lines. Movement, Territory and the Law' (2010) 6(3) *International Journal of Law in Context* 217.

⁸⁷ In that regard, law works as an imaging technology that enables visualisation of unified objects for impending interventions. This understanding of the visual role of law will be examined in chapters 2 and 3.

⁸⁸ Governance, as we shall see, concerns the circuits of intervention which law enables by means of its noting, recording and writing. The workings of law in intervention tend to be overlooked, by making them one and the same thing. In this thesis, I attempt to advance beyond this elision by formulating a more unique role played by law. As I have indicated already, it is commonplace that law's inscriptions serve the interests of the propertied, a point already consecrated in the critical literature, and one which I do not wish to restate.

⁸⁹ Blomley, 'Law, Property, and the Geography of Violence' (n 31).

(maps, grids, surveys, title registration) and indeed visual materials (fences, hedges, huts).⁹⁰ Through the drawing and policing of boundaries, property is territorially and populationally organised, or in Blomley's terms, property renders spaces and bodies orderly, 'legible and actionable'.⁹¹ The cartographic technique of inscriptions, for example, forms new modes of visualising space through a linear perspective, stabilising the modern subject as the spectator positioned at the vanishing point. Removed from social context, the individuated subjects and objects of property, the foundations of modernity as we have seen, appear as *a priori*, pre-social categories of rights-bearing possessive individuals (legal subjects) and the objectified 'things' of property that are imagined as separate units. The 'troubling presence' of others who threaten the fixed and bounded object of property with their mere physical presence as well as the identity of the 'spatialised self' is to be continually removed.⁹² Exclusive ownership requires that others are to be excluded, which in turn, entails a right to exclude.⁹³

The seemingly natural order of things within the liberal property regime in fact requires constant efforts to assert one's position by visualising and responding to the propertyless, as 'legible and actionable' positionalities.⁹⁴ Sociotechnical inscriptions are such acts of drawing and tracing⁹⁵ which produce effects – concrete effects as will be seen in chapter 3. One set of such techniques is that which demarcates – i.e., designates a form of spatial-temporal containment to – populations and territories which are to be categorised as 'poor'. The classification of the poor and nonpoor emerges as a result of this ascription, which then enacts material distributions based on exclusive ownership. Poverty is then regarded as the same as its symptom of material lack by means of legal techniques of ascription (which designate who are the poor) followed by scientific techniques of inscription (which classify seeming attributes of the poor). In other words, these techniques couple visualisation and intervention (the abovementioned legibility and action), and cement poverty as material lack. This is the active gestures of the production of poverty as propertylessness. Property entails a classificatory scheme based on a binary

⁹⁰ Nicholas Blomley, 'Cuts, Flows, and the Geographies of Property' (2010) 7(2) Law, Culture and the Humanities 203.

⁹¹ Blomley (n 90).

⁹² Blomley (n 90).

⁹³ Blomley, 'Territory of Property' (n 14).

⁹⁴ As indicated before, I refer to positionalities in terms of the relational arrangement of the gaze of the nonpoor towards the poor. To be poor is to be in the position of being looked at as poor. I will deal with this arrangement in chapters 3, 4 and 5.

⁹⁵ Brighenti (n 86) 225.

that orders the world,⁹⁶ a frontier that separates the positive pole (the propertied) and its antithesis (the propertyless). As will also be discussed in chapter 3, these aesthetic categories soon become ontological entities. Yet, the crucial point that I am making now is that if poverty is to be construed as the active production, then wealth is the actual by-product. Which is to say, economic growth is framed as an effect of the production of poverty. First the poor are produced, then wealth is accumulated.

In this chapter, we have seen how the drawing of lines to organise bodies and landscapes, composing populations and territories, has been operative since the early formation of the market economy and its global expansion. This observation will be reiterated in other moments in this thesis, to evoke the changing spatial configurations of urban poverty in its connection to practices and techniques of poverty knowledge and intervention. In the coming chapters, this argument will be further developed to situate law as a technology of visualisation, i.e. the propeller of knowledge and intervention onto poverty. Reality is thus a visual arrangement of things which are reified in space in which property (or propertylessness) configure a mode of seeing and governing space proper to modernity. Yet, the modern gaze surely has its internal contradictions and occasionally revives and prefigures diverse logics. In a genealogy about modern and premodern ways of seeing and managing urban disorder, Mariana Valverde identifies a series of overlapping, polysemic legal tools in operation. 'Epistemological eclecticism' is then more fitting with heterogeneous micro-regulatory interventions than a central state-led, or market-oriented sense of top-down order. That is to say, a city's landscape reflects knowledge practices of different orientations which visualise and govern, rather than a built-in 'political essence'.⁹⁷

This point is effectively articulated in Kirsten Campbell's *City of Law*, which, following a Latourian approach, traces the urban terrain and city life as entwined by legal associations that circulate through the landscape, and simultaneously 'order urban life through domination' and 'build new forms of urban life'.⁹⁸ Although I build my argument in terms that are less centred on assemblage urbanism and more directed to sociotechnical legal formations, Campbell's 'assemblage analysis' informs the articulations of the urban and the legal in this thesis. Contrary to a somewhat formalist-institutional register of 'law' as a traditional system that regulates the basic institutions of capitalism – which might be

⁹⁶ Blomley, 'Cuts, Flows, and the Geographies of Property' (n 90).

⁹⁷ Mariana Valverde, 'Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance' (2011) 45(2) *Law & Society Review* 277.

⁹⁸ Campbell (n 76).

misguidedly presumed as the chapter starts precisely by revisiting a legal history of the modern property legal regime – I also aim to situate law as resulting from chains of legal practices, obligations, rights claims, entities, technologies and diverse legal forms that tie up legal associations in time and space, i.e. into a ‘city of law’.⁹⁹

Likewise, the city is not restricted to the built environment simply contrasted to the rural environment, but it is rather a specific (urban) form of social organisation that alludes to the (urban) arrangement of populations and territories. In that regard, Irus Braverman analyses how urban spatial design is taken for granted as static built environment but is in fact a fabric of technological devices.¹⁰⁰ Geolegal technologies act through the visibility of physical space and make themselves invisible. As ‘geolegal sites’, then, the territories of poverty – slums, peripheries, outskirts, margins – are subjected to a ‘dual project of seeing and concealing’, being at once pushed away, further to the margins of the urban landscapes, and being simultaneously highly surveilled and policed. As an effect, it seems natural or inevitable that territories of poverty happen to be at the margins, or circumscribed as breaks in the urban grid, often covered up with walls or other devices of architectural hostility, and with different flows of people and conditions of circulation.¹⁰¹ On the other hand, such territories are also active generators of dynamic modes of urban life which, in turn, propel new forms of legal association, as Campbell remarks in relation to Victorian London’s slums which ‘saw the rapid development of new forms of municipal government, labour and housing laws, and, of course, the development of modern company and tort law’.¹⁰²

In view of this, I frame the discussion in the previous sections of this chapter as part of this ‘legal urban association’. As the result of social relations, for example, the urban landscape is assembled into social, political and economic interactions and, therefore, the industrial and financial transformations are historically associated within the city composition. The urban landscape and the territorialisation of poverty to which I will refer in the succeeding

⁹⁹ Campbell (n 76) 208.

¹⁰⁰ Irus Braverman, ‘Hidden in Plain View: Legal Geography from a Visual Perspective’ (2010) 7(2) *Law, Culture and the Humanities* 173.

¹⁰¹ Such territories certainly carry ideological projects, as Braverman describes in the Israeli/Palestinian landscape. The same applies to the segregation of favelas in Brazil, as I will discuss in chapter 5. For sure, not all the setup of a slum is defined by a pre-existing motive. The designs can often reveal improvised arrangements and Braverman concedes that the landscape production is also influenced by other ‘forces’ beyond ideological projects, as would be the case in Assef Bayat’s perspective on the ‘quiet encroachment of the ordinary’. But, as I have been reiterating, beyond the domination-resistance dialectics, I am interested in technological functions and what they produce as effects, rather than their hegemonic, ideological projects, and I will limit my analysis accordingly. Assef Bayat, ‘From “Dangerous Classes” to “Quiet Rebels”: Politics of the Urban Sub-altern in the Global South’ (2000) 15(3) *International Sociology* 533.

¹⁰² Campbell (n 76) 203.

chapters reflect this understanding. I will then argue that legal-aesthetic modulations determine the conditions of poverty's appearance and disappearance in the urban landscape. Rather than a container of 'natural modes of ordering', the urban landscape must be seen as 'relational, produced through diverse, networked processes'.¹⁰³ It is in this sense that I argue in this thesis that poverty is a legal composition. As such, poverty is effective in demarcating populations and territories and targeting 'morally and aesthetically objectionable' types and making them *known* and *intervenable* by the 'governing gazes', or in Valverde's terms *visible* and *governable*.¹⁰⁴ Yet again, the populations and territories ascribed to poverty are also the sites of new modes of life that are incompatible with such gaze. Here is a point of perpetual conflict, inconformity and indeed *informality*, as will be discussed.

To conclude and return to the initial interrogations of this chapter, as an active formation, property is continually enacted and enforced through violence. The structural inequality of contemporary society is, thus, part of a long history of violence which, far from exceptional, is fundamentally articulated and justified by law.¹⁰⁵ The key components of property are prefigured in the historical processes retraced earlier in the chapter, and endure in preserving the so-called liberal regime of property. This perspective enables a reformulation of the notion of propertylessness as an active gesture in the production of poverty and to propose that poverty is a frame of reference which operates both as sense-making and as world-making functions. Legal modes of the governing gaze of private property forge new social categories by providing the founding principle dividing proprietors and the dispossessed. The construction of poverty as a social problem is thus connected to legal processes which cement social positions in a legal, proprietary relationship. It is through law that poverty is created and then isolated from structural explanations of society. The classificatory gaze over populations and territories – the gaze that sees poverty (the nonpoor gaze) – is normative: it describes and prescribes poverty. As a 'gaze', the scientific gesture of perceiving and examining poverty as a social phenomenon is forged in a rather recent history of dominant understandings of and material effects on populations and territories thus classified. Production of knowledge about poverty also produces a naturalised and calculable version of poverty which 'appears' in the world – henceforth perceived through the identification of a set of visible

¹⁰³ Blomley (n 90) 204-205.

¹⁰⁴ Valverde, 'Seeing Like a City' (n 97) 308.

¹⁰⁵ Blomley, 'Law, Property, and the Geography of Violence' (n 31).

elements despite a series of other components which are rendered invisible. For the time being, this point of perception is relevant for the identification of a series of other legal mechanisms which respond to (form part of) the classificatory logic of the regime of property, here construed as components in the legal machinery of pauperisation and dispossession. In the next chapter, I will examine four such components as trends in legislation that regulate poverty. I will demonstrate how, through legal techniques, visual economies are formed by legal-aesthetic compositions in which 'profiles' of the poor are formed. In this way, I consolidate the argument of this thesis that poverty is a legal composition.

CHAPTER 2

Legal codifications of poverty: the technical-analytical gaze upon the poor

What happens to ‘the poor’ when law regulates poverty? Depending on the viewpoint, law can be seen to aid, to punish, to civilise, to normalise, to discipline, to rehabilitate, to enfranchise, as well as to equip the poor to find their own ways out of poverty. While it is true that there are as many possibilities for the legal regulation of poverty as there are interpretations of what poverty is and how it should be dealt with; I argue in this chapter that an overarching role is played by law within the history of shifting modern attitudes towards poverty. By examining the practices which enable innovative legal treatments of poverty – i.e. the practices that continually produce and refine law’s operations upon the poor – a stable underlying gesture can be found: the gesture of a gaze that visualises poverty and makes it materially visible according to the expectations of the originating gaze. As such, I propose, law operates as a technology of visualisation that effectively modulates populations and territories. In order to identify this overarching role, one needs to adopt a comprehensive perspective across temporal and spatial, as well as disciplinary, borders. A long-term pattern can be detected by means of an overview across a series of diverse legal branches, moments and practices which, on the surface, may seem isolated.

It has been discussed in chapter 1 how legal forms and techniques shaped the history of modern private property and manufactured conceptions of poverty as propertylessness. By reconceptualising propertylessness as an active gesture, I pointed to an imaging or visual function performed by law without providing much detail on how this function plays out. I will now present a selection of four types or clusters of legal codifications that enable me to trace parallels and to illustrate how this underlying function can be seen to operate in different times and places. Such clusters – as broad epochal legislative trends which accompany the history of poverty knowledge and intervention – are presented as: poverty relief, criminalisation of poverty, welfare support and development aid. They form allegorical models of poverty administration as they establish paradigmatic legal techniques – ways of seeing and governing, reading and acting, knowing and intervening – typically evoked in poverty law scholarship. I construe them as attitudes towards poverty originating from technical-analytical gazes, which operate and vary in different times and

spaces but which do not eliminate or replace each other.¹ They might change qualitatively, but often revive older trends and techniques. My aim, by laying out these gazes, is to analyse law's aesthetic operations which produce 'the poor' as legal profiles – with stable forms and contents – and which modulates populations and territories accordingly. Ultimately, the modulated populations and territories of poverty work at confirming precisely that which law dictates, thus coming full circle in the circuits of poverty's socio-technical production.

The ways in which I consider these legal operations 'aesthetic' will be presented in chapter 3, particularly in reference to law's functioning through images. For the time being, it suffices to indicate that this chapter looks into the interactions of law in the circuits of knowledge and interventions through the medium of changing 'images' of poverty. I explore certain ways in which law regulates poverty² and, concomitantly, generate particular ways of visualising the poor. In that undertaking, law is construed as bridging the circuits of poverty knowledge and interventions in a way that goes beyond enabling exchanges between social research and social policy, but rather by generating images and ways of seeing poverty. Such images and modes of seeing can be found, like snapshots, in epochal instruments of antipoverty legislation. In other words, legal codifications of poverty simultaneously respond to and enable knowledge practices and intervention techniques in a very particular and creative way. On the one hand, legal codifications are formed around poverty and, on the other hand, by making poverty knowable and intervenable, those codifications create and shape the very problem they aim to fix. Poverty only exists as an entity – a problem – to be examined and acted upon after it is (legally) made visible. In that regard, my argument is that a series of visual practices and imaging techniques, operated by legal technologies, makes epochally and contextually intelligible forms of 'poverty'. They take effect through practices of profiling, recording, classifying, documenting, ordering and executing that are typical of the administrative craft of law.

¹ As Mariana Valverde characterises what she terms 'governing gazes'. Mariana Valverde, 'Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance' (2011) 45(2) *Law & Society Review* 277.

² A point of clarification: although the overall approach to 'law' in this thesis refers to a wide-ranging sense of normativity that is put to practice and produces effects in varying forms, this chapter works with posited legal infrastructures. By investing in this excavation, I am signalling that the general terms through which I refer to law in the thesis are not to suggest that I am addressing an abstract, ethereal normative force/authority that cannot be determined. Instead, it is because I would like to connect distinct legal regimes in this analysis, to show a pattern, that 'law' appears broadly constructed in this thesis. This chapter, however, demonstrates the concreteness of the arguments that will be developed in the succeeding chapters.

But what does it mean to claim that law operates through (producing and responding to) images? What are the images mobilised in such legal mediations between the science and politics of poverty? For sure, law is not a pictographic technology which produces pictorial representations as the necessary outcome of its craft. The extent to which law produces and acts on images is more nuanced. It involves mediums that are not necessarily immediately grasped as visual but may activate visual dynamics, such as descriptions, testimonials, illustrations, cases, files and, most importantly in this thesis, data. But to describe it as nuanced does not make it into a mere metaphorical suggestion. In fact, law does quite effectively operate through symbols, emblems, representations, forensic evidence, courtroom sketches, mugshots, to name a few of law's visual media.³ In a wider sense, law also interacts by influencing and being influenced by design compositions – arts, literature, film, photography and, most importantly here, urban design and policy design. By tracing a history of the trends in gazes upon poverty, I aim to identify the visual elements which they evoke in terms of profiles, places and techniques.

For this task I revisit the literature covering the modern history of 'dealing with the poor'. Since different branches of law are typically treated as having separate objects of which generate separate fields of scholarship – property law, criminal law, administrative law, international public and private law, human rights, to name a few that are directly implicated in poverty regulation – I proceed in retracing this history by following pioneering studies which are attributed prominent roles influencing or reflecting trends in legislation that concern 'the poor'. For initial guidance, I used two dense compendiums – one by Martin Ravallion and another Pete Alcock – which present a detailed history of poverty in economics, econometrics and policy frameworks.⁴ From these narratives I extracted the influential studies and landmark legislation that I highlight in this chapter, with the addition of others that I found in alternative secondary sources.⁵ I shall now briefly describe the terms which informed my selections and my analysis.

While concerning mostly localised objects of study, the 'influential studies' (reports, books and other types of publication) that I reference are widely quoted in the literature as the core foundation of poverty studies worldwide, and they articulate, with little adherence to

³ The literature on 'law and aesthetics' and 'law and image' will be reviewed in chapter 3.

⁴ Martin Ravallion, *The Economics of Poverty: History, Measurement and Policy* (Oxford University Press 2016); Pete Alcock, *Understanding Poverty* (Palgrave Macmillan 2006).

⁵ In contrast to the style of presentation that I follow in other chapters, in this chapter I present references exclusively in the footnotes to indicate the hints that I followed to trace the history that I now narrate. I do this in order to keep the main text 'clean' from scholarly divergences and disagreements, although such debates certainly permeate the construction of this narrative about the history poverty administration.

geographic or academic boundaries, the different branches of law. They provide the benchmarks that allow me to revisit a few centuries of international history without being distracted or overwhelmed by the diversity of orientations that poverty law tends to reveal locally. Of course, the history that I re-narrate from these benchmarks is not the whole history of poverty thinking. It is an indicative collection of the most prominent and influential studies within the relevant literature. Not only do these sources not provide *the* comprehensive history, but this method also leads me into effacing other very important milestones that, had I focused on them, might have produced a different historical narrative. But having acknowledged this reservation and clarified that the purpose is not to trace ‘the’ but ‘a’ history of poverty thinking – one that reveals ideas that produce resonances and impacts beyond their times and places – I can also recognise how this selective overview provides me with the advantage of understanding the broader context in which certain ideas were able to emerge and receive recognition from wider networks of intellectuals, administrators, philanthropists and other specialist agents. With that established, I then review the different sets of scholarly work which discuss the changing legal trends in depth. Essentially, I apply a new and synthesized lens to explorations that have already been undertaken from multiple standpoints and disciplines, by indicating how things like philanthropy, social work, policing, social rights, social policy, income support, public order management, militarisation, urban development, international aid, and microcredit work together rather than constitute separate types of attitudes towards poverty; they are here construed as variants of poverty administration. The contribution of this chapter is, first and foremost, one of compilation, laying the grounds for the analysis I develop in the rest of the thesis. Moreover, I am resituating this history as a global history, rather than as context-specific experiences and occurrences that have simply travelled, i.e. that have been exported and imported elsewhere.

I also look for historiographical revisions which suggest that the link between social research and policy are not so clear-cut as informed decision making. Since very early on in the history of empirical social research, contemporary accounts show that there are discrepancies. The validity or accuracy of these revisions is something for the historians to deliberate. From my point of view, however, as a legal researcher, these discrepancies are useful and important enough to indicate that there is a gap to explore between research and policy, or the circuits of science and politics. The task I undertake is to redefine the role of law in targeting poverty, by retracing law’s multifarious connections with these circuits. The history of social policy followed the course that it did but the extent to which

we can explicate that history simply through the advancements of social research is questionable. In fact, the historical narrative that I compile in this chapter demonstrates a gradual transformation in the exchanges between science and politics over the course of the nineteenth and twentieth centuries. From the use of theory in policy to a paradigm of technical experiments, in other words, from an emphasis on scientific discoveries of the 'nature' of social problems to pragmatic knowledge practices testing theoretical propositions to solve social problems – this shift formed the models of what today are termed 'practice-oriented research' and 'evidence-based intervention'. This point will be picked up in chapter 3, when I draw on the history and philosophy of science to address how empirical social research and quantification became tools for informing management rather than supporting theory. However, in this chapter I seek to interrogate what do these historical transformations mean for law and what can be identified as the stable legal role. This is what I am pursuing: not to add to the historical revisionisms, but to use them for legal critique. I then build on this identified role of law in the succeeding chapters.

With that purpose in mind, a few caveats are important. These clusters are commonly found in historical accounts of poverty research, although they are usually presented as separate and self-contained, temporally and spatially specific framings of poverty, defining the problem group of each time and place. I aim to present them, instead, as cumulative and often co-occurring, affecting populations and territories worldwide. In what follows, I attempt to scrutinise each cluster with a distance. I do not investigate them as formative modes of knowledge production which may inform my own views and points of critique about how poverty is conceptualised, but rather as media-technological modes of poverty production. That is to say, I observe how, from techniques of inscription (census, surveys, maps, photography, ethnography, biometrics, physionometrics, graphs, digital data among many others), poverty becomes a delineable thing in the world. But as previously indicated a dimension of ascription determine such inscriptions. Thus, I examine how modes of ascription and classification organise material compositions. Then, by inscribing sets of ascribed factors as visual markers – characteristics, features, indicators, spatial distribution, interrelations – poverty becomes a visible, determinable and treatable occurrence. What technical-scientific practices in general are producing, rather than discoveries of facts about poverty, are in effect modes of poverty visualisation originated in legal practices. Continual technological innovations to deal with poverty reflect corresponding reconfigurations of poverty. Moreover, such inscriptions, in the form of

images of poverty, end up confirming the foundations on which they are premised and which condition their very creations.

Furthermore, I do not address codified legislation as standing for 'law'. The codifications are the result of law, its positing in time and space. Law itself, as will also be clarified in chapter 3, is broadly construed as an emergent effect of its own practices. In other words, law is the result of a series of practices that continually refine legal operations. They are legal practices to the extent that they carry legal implications, which may include practices of knowledge and intervention, as well as those involved in codified legislation, legal institutions and law enforcement. For example, the operations around the codification and the implementation of the poor laws (including surveys and the daily functioning of workhouses) are legal practices, meant to refine law in its making of poverty. The practices of incarcerating subjects who are seen as criminals and in turn, producing new data which supports this previous image of poor-as-criminal are also legal practices that refine legal reasoning, language, interpretation, doctrine, codes, procedures, institutions, and so forth. The changing emphases of legal codifications trace a thread through the history of poverty, rather than reflect it in totality. Just as I use the influential reports as methodological coordinates, my reference to codified legislation serves the purpose of laying out benchmarks while I navigate the wider transformations of which they are merely partial and temporary documentations. As will be seen, I do not intend to analyse the legislation per se, but to use it as evidence of complex changes in course.

For my stated purposes in regard to codified legislation, I am less concerned with their internal logics, the institutional architecture they form and the effectiveness of their founding principles. What is relevant to stress is that an underlying modulating effect is inflicted upon populations and territories that are seen as poor and that the components of knowledge-law-intervention are continually rearranged in what appear to be entirely new approaches to poverty. Yet what is actually transformed are the means through which different epochs are defined by different perceptions, attitudes and practices regarding poverty. This is a history of increasingly bureaucratic and documented poverty administration models. To use in broader terms what David Garland describes in relation to the formation of the welfare state, the administration of the problem of poverty 'is not some kind of historically embedded idea or teleological essence that was always in the process of emerging. Nor is it an essentially unified conceptual whole. It is, instead, the name we give to a distinctive set of practices that emerged at a specific historical

moment.’⁶ They present shifts in orientation of policy and bureaucracy. I retrace these shifts with no claims regarding rationality or ideology, but simply investigating the practices and techniques employed and the effects they bring about.

Thus, in the relentless rearrangements of historically emergent means of poverty administration, I aim to isolate law’s stable role. I shall demonstrate that on different fronts, law continually creates populational categories by profiling, qualifying and/or regulating the eligibility of figures such as vagrants, criminals, benefit recipients, clients, microentrepreneurs and so on. In addition, building on the discussion from the previous chapter, law also continually shapes the territoriality of poverty by regulating spatial distributions, entitlements and conflicts. In a nutshell, law continually plays a role in establishing the conditions for poverty to be seen – here lies the legal aesthetics of poverty which entitles this research. To foreshadow the argument, it is interesting to consider that, in contrast to what would seem like a normal flow of things, it is not inevitably science that finds, examines and formulates what poverty is based on an essentially empirical reality of poverty. In this light, it is law that creates poverty by providing the material basis of its conceptual formulation, i.e. the populations and territories modulated into an image of poverty. Science measures and inscribes the symptoms, the indicators of a legally-formed poverty design, rather than objective traces of poverty. Through law, profiles are registered, particular meanings are educed and narratives are created. This formation is construed as a circular mechanism: law works as the executive branch of social policy; in doing so, documentation is produced contributing to the formation of quantitative and qualitative data about the poor; this data feeds scholarly production, especially in the field of social sciences, where intellectuals build theoretical archetypes to explain traces of destitution, degeneration, criminality, and so on; in turn, public policy and law are reorganised based on such new studies, potentially reformulating the outreach of the legal devices that will further sample territories and populations by profiling, qualifying and/or regulating ‘the poor’. Thus, law’s production of images and narratives feeds and is fed by social research; theoretical and philosophical conceptualisations; and social policy design.

That being said, there is little systematicity in existing legal scholarship to address a global legal history of poverty. In fact, there are few sources that enable a comprehensive, long-term view of how poverty’s legal administration has been transformed throughout history

⁶ David Garland, ‘The Welfare State: A Fundamental Dimension of Modern Government’ (2014) 55(3) *European Journal of Sociology* 334.

and across legal branches. In order to start my investigation, as already indicated, I reconstituted such a history by clustering four trends in legislation, conceptualisations and interventions which are commonly recognised in the relevant literature but are seldom – if at all – put together to be analysed in parallel. By consolidating these trends here, I aim to convey the themes or patterns that loosely group together collections of practices. These practices are not bounded by particular locations, historical moments, legal spheres or other such parameters, but rather by their shared emphasis on poverty relief, criminalisation, social provision or international development aid. These are the clusters I refer to in the four sections that follow in this chapter and which I have set out in the following Table:

	Poverty Relief	Criminalisation of poverty	Welfare support	Development Aid
Technical-scientific grounds	Social surveys	Science of crime	Strategic and programmatic social policy	Social indicators
Premise of the intervention model <i>(enabled by legal techniques)</i>	Pathologising the poor	Criminalising the poor and racialised	Insuring against the risk of poverty	Developing the global poor
Territorial modulation	Urban slums in industrial towns	Urban clearance and policing areas of high crime rates	Social housing resettlement	Monitoring and assimilation into market
Typical sites of legal intervention <i>(poverty concealment and yet heightened visibility)</i>	Workhouse, factory	Prison, black ghettos	Social housing estates	Militarised informal territories of poverty
Populational modulation	Treatment and put to work	Incarceration of populations	Stratification and civilising the poor	Financialization of the way out of poverty cycles
Typical characters formed <i>(legal profiles)</i>	The vagrant, the vagabond	The criminal, the dangerous poor, the black poor	The benefit recipient, the client, the scrounger, the fraudster	The microentrepreneur, the informal dweller

A final caveat before proceeding: as I set this discussion in the context of the practices of specialist institutions and of intellectual traditions, it strikes me that I ended up reinforcing a western European and northern American narrative of the world's history. This is something I came to terms with by acknowledging that the history of the global agenda of poverty reduction has deep-roots in modern European formations of poverty production (in fact, the entire idea of poverty by which we operate today comes from such a western, modern European formation of poverty as a concept and as a phenomenon – as a problem to be fixed⁷). As will become clearer, this narrative accounts for a mode of knowledge and intervention that became increasingly global, in tandem with capitalist global expansion by the end of the twentieth century. The conceptual constructions of poverty are an integral part of that expansion. To attempt a counter-narrative that avoids poverty's social and intellectual centres of production would fail the purposes of this thesis. As a trade-off, regrettably, omissions of varied and contradicting experiences around the world are inevitable within the limits of this research.

If poverty research is an American invention, as Alice O'Connor indicates,⁸ surely it is expected that a lot of the available scholarship on poverty law would concern an English-speaking lineage. However, there are certainly many other lineages of public administration history from other parts of the world to be excavated and the compilation of which would bring a more comprehensive insight about how poverty became a modern administrative problem.⁹ On the other hand, the American-British lineage is undoubtedly a central one when it comes to the contemporary global configuration of poverty

⁷ See for example: Jeffrey Sachs, *The End of Poverty* (Penguin Group 2005).

⁸ O'Connor is referring to the body of technical expertise and experts which flourished in the last decades of the twentieth century, as a legacy of Lyndon Johnson's War on Poverty agenda of the 1960s. It is interesting to note that although the infrastructures of poverty research can be clearly traced in the USA based on the country's institutional formations at the time, it is perplexing to find the bulk of poverty research scholars ignoring the long-standing traditions of poverty investigation elsewhere. Still, for the purposes of this chapter, I follow this literature as my guiding sources and, although redressing this narrative goes beyond the scope of my research, I attempt to add occasional markers of how the rest of the world is implicated in most of the advancements registered in the institutional history of poverty knowledge and policy in the USA and the UK. Alice O'Connor, *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth-Century U.S. History* (Princeton University Press 2002).

⁹ Both Bronislaw Geremek and Silvia Federici recount European experiences as antecedents to public assistance in the context of the passage from medieval feudalism to early modern capitalism. See Bronislaw Geremek, *Poverty: A History* (Blackwell 1994); Silvia Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation* (Autonomedia 2014).

Also, for an exploration into the *Grand Bureau des Pauvres* – the body for the management and administration of the poor in sixteenth and seventeenth-century Paris – through an analysis of the notion of duty and office concerning the "dangerous classes", see: Serene Richards, 'Life, Language, Law: The Invention of Dangerous Classes' (PhD Thesis, University of London 2019).

knowledge, law and intervention. This is the case not only because of the colonial history that formed the contemporary international configurations, even with regards to former non-British colonies – not to enter into the discussion of the extent to which the British empire has exercised its influence in non-British colonies and how today the USA plays this influential role in policy across the globe¹⁰ – but also because of how the USA and the UK were leading agents in the formation of the Bretton Woods system that dominates global poverty management today. These two countries are, thus, analysed as the historical and contemporary centres of the production of poverty knowledge and its worldwide influence. Yet, I must insist that scholars often fail to recognise that this is not an American or British history, but rather a world-history in which the USA/UK-defined ‘third world’ often participates as a laboratory for experiments – a point that I presented in chapter 1 and which I shall continue to highlight as I constitute the history in this chapter. It is in the context of this transnational, cross-cultural and multi-sited perspective that, in the sections that follow, I outline the shifts and trends in poverty knowledge, law and interventions.

2.1 Poverty relief

It is a common cliché to start with the English Poor Laws, which, much like the enclosure movements, have already been deeply explored and are extensively documented by historical research. Although less well known, it has also been documented how the model and effects of poor relief have coalesced and been reshaped in other contexts. That is to say, not only have poor laws effectively been tested in other countries in Europe¹¹ and the archetypical workhouse or similar houses of correction can be found beyond the British colonial territories,¹² but also the English poor themselves have travelled far: since early on in the seventeenth century the overseas operation of the Old Poor Law included

¹⁰ On this point, see for example: Gregory A Barton, *Informal Empire and the Rise of One World Culture* (Palgrave MacMillan 2014).

¹¹ As narrated by Peter H Lindert, ‘Poor Relief Before the Welfare State: Britain versus the Continent, 1780–1880’ (1998) 2(2) *European Review of Economic History* 101; Sharon Farmer, ‘From Personal Charity to Centralized Poor Relief: The Evolution of Responses to the Poor in Paris, c. 1250–1600’ in Anne Scott and Susan Broomhall (eds), *The Experience of Charity in Medieval and Early Modern France and England* (Ashgate 2015).

¹² Harald Fischer-Tiné, ‘Britain's Other Civilising Mission: Class Prejudice, European “Loaferism” and the Workhouse-System in Colonial India’ (2005) 42(3) *The Indian Economic & Social History Review* 295. Additionally, and beyond the British empire: Silvia Marina Arrom, *Containing the Poor: The Mexico City Poor House, 1774–1871* (Duke University Press 2000).

subsidising the emigration of the pauper to the colonies.¹³ However, I examine historiographical accounts (and revisions) not in reference to the historical heydays of the Poor Law system but for how it propelled, mostly in the process of its decline, the advancement of scientific poverty knowledge by building on techniques of social surveys and statistics. That is to say, my emphasis is on how the nineteenth century Poor Law, itself designed in reference to an extensive survey, prepared the ground for the impending development of empirical social investigations at the end of the nineteenth century, which later propelled the ultimate termination of the Poor Law by its own mechanism of monitoring and reporting.¹⁴ In this excavation I question the early connections between empirical research and social policy that are present in the legal responses to the problem of poverty.

To contextualise the main elements found in the prolific historical resources available on this topic, the so-called Elizabethan or Old Poor Law from 1601 – originally the 1598 Act for the Relief of the Poor – was the first unified, secular and statutory response to pauperism, and it regulated the provision of decentralised, tax-financed relief to the poor by local parishes. While the industrial revolution was drastically changing the general understanding of poverty as an increasingly urban problem, up to the nineteenth century poverty was concentrated in the rural areas and the relief system was very much designed to attend to the needs of populations facing shortages of basic subsistence, and thus to mitigate rural-urban migration.¹⁵ Supplemented by the Speenhamland system of income support, the Old Poor Law established a parochial-based public charity system, by making it compulsory for parishes across England and Wales to provide means-tested relief for their parishioners by way of a poor rate collected and distributed to those in need – in parish workhouses or in outdoor relief, assisting the able-bodied to work and punishing the work-shy.¹⁶ As a local and decentralized system, parishes had the autonomy to

¹³ Gregory Clark and Marianne E Page, 'Welfare Reform, 1834: Did the New Poor Law in England Produce Significant Economic Gains?' (2019) 13(2) *Cliometrica* 221.

See also: Howard Mackey, 'The Operation of the English Old Poor Law in Colonial Virginia' (1965) 73(1) *The Virginia Magazine of History and Biography* 29.

¹⁴ Empirical social research became an intellectual discipline in the nineteenth century, providing informational support to government offices and social reform movements. This is the period in which many national associations were founded, such as: the French Académie des sciences morales et politiques (1832), the British National Association for the Promotion of Social Science (1857), the US Social Science Association (1867), the German Verein für Socialpolitik (1873). See Johan Goudsbloma and Johan Heilbron, 'History of Sociology' in Neil J Smelser and Paul B Baltes (eds), *International Encyclopedia of the Social & Behavioral Sciences* (Elsevier 2001) 14574.

¹⁵ Karl Polanyi, *The Great Transformation: The Political and Economic Origins of our Time* (first published 1944, Beacon Press 2001).

¹⁶ It is worth noting that historical accounts also report on other co-existing initiatives during the early modern period – private-professional charities, such as Catholic, Protestant and Quakers charity schemes with

oversee the local poor and tailor the amount of relief provided for each family. On the other hand, this was also a highly punitive and stigmatizing system and, in tandem with the so-called Bloody Laws mentioned in chapter 1, forged the categories of the industrious deserving poor and the depending objectionable pauper.¹⁷ That is to say, whilst earlier conceived as a unified category of the 'labouring poor', with poverty being seen as a normal condition of the propertyless who had to work to obtain sustenance, the views of poverty radically changed by the nineteenth century through a split into binary classifications of the poor and the pauper, the involuntarily and the voluntarily poor, the working and the indolent poor, the deserving and undeserving poor.¹⁸

The posited legal framework at the time was also supplemented by the 1662 Settlement Act which further limited eligibility to poor relief for those who were recognised as settled in a parish by ties of birth, marriage or work. It promoted fixity to one and parish and sought to exclude travellers or strangers, who were vilified in the figure of the vagrant and associated with malicious attempts to defraud the more generous parishes.¹⁹ In fact, it was well aligned with the deep-rooted succession of legal instruments designed to repress the archetypal figures of the vagrant, vagabond and beggar – from the Vagabonds and Beggars Act 1494 to the Vagrancy Act 1824 – and also served as legal methods for controlling populational circulation. While the vagrancy laws listed various acts to be read as public order offences, historians describe the body of legislation against vagrancy as measures to contain workers within their parish of origin, as they were typically deployed against a large variety of migrating social groups.²⁰ Control of mobility has historically been connected to the legal formation of profiles of poverty – the archetypal figures of the rogues, tramps, nightwalkers, vagabonds, beggars, highwaymen, wonderers – loosely framing individuals who act by predefined disorderly behaviours. In other words, legal measures worked at processing populations which embody the stereotypes of 'mobile lives' within a system that aims to contain the territoriality of poverty and its urban-rural distribution. From the early stages of modern law, the definitions of the poor appear as much more effective in legal rather than economic terms. Legal definitions work as a

their own institutions, funds, schools, hospitals and workhouses, as well as growing cooperative movements at local levels – which formed a rather 'mixed economy' of welfare provision and indeed a division of labour between the public and voluntary sectors. See Johanna Innes, 'The "Mixed Economy of Welfare" in Early Modern England: Assessments of the Options from Hale to Malthus (c. 1683-1803)' In Martin Daunton (ed), *Charity, Self-Interest and Welfare in the English Past: 1500 to the Present* (UCL Press 1996).

¹⁷ Federici (n 9).

¹⁸ David Englander, *Poverty and Poor Law Reform in Nineteenth-Century Britain, 1834-1914: From Chadwick to Booth* (Routledge 2013).

¹⁹ David Hitchcock, *Vagrancy in English Culture and Society, 1650-1750* (Bloomsbury Academic 2016).

²⁰ Hitchcock (n 19).

processing mechanism through which one is to be declared vagrant, not the other way around: law was not responding to a populational type, law was processing populations (both outsiders and local populations) into such categories and, in effect, creating such 'types of people' (deemed idle and disorderly) by modulating populations and territories. But legal measures were also taken to administer the mobility of the populace and to organise urban spaces by removing vagrants, by means of overseas emigration.²¹ Increasingly, in the context of industrialisation, there was a change to a pattern of vagrant removal rather than punishment in London.

Critiques of the relief system, increasingly seen as lenient for promoting indolence and moral hazard, as well as for encouraging pauperism, gained strength particularly among classical political economists. Thomas Malthus was a prominent voice repudiating relief as 'hand-outs' due to a supposed effect of disincentivising industriousness and encouraging unsustainable populational growth. Other important classic political economists at the time were critical of the Poor Law, such as David Ricardo, Adam Smith and, most notably, Jeremy Bentham, for whom the Poor Law worsened the problem of poverty instead of alleviating it, by producing dependent paupers.²² Indeed a degree of poverty becomes not only natural but also necessary for modern societies to thrive. In 1832 a commission of inquiry was appointed to investigate the utilitarian effectiveness of the Old Poor Law and to inform the reform of the poor relief practices by means of a wide survey and based on the practical political economic expertise of its members. This investigation is frequently narrated as one of the first technical-scientific works of social research – including major, nationwide surveys that developed fieldwork and undertook questionnaires in 3,000 parishes in England and Wales.²³ As a precursor to the late nineteenth century social survey movement which facilitated the second thrust of reform of the Poor Laws in the early twentieth century, these endeavours consolidated the disciplines of political economy and empirical social research through the practice of gathering data about the poor and their governance. The commission's 1834 report pointed to the social costs of the old relief system in terms of its 'reduced work incentives', 'reduced labour mobility',

²¹ Eric Richards, 'How did Poor People Emigrate from the British Isles to Australia in the Nineteenth Century?' (1993) 32(3) *Journal of British Studies* 250.

²² Kevin Bales lays out two predominant camps of those who 'busied themselves about poverty': the Benthamite camp attributed poverty to a supposed 'natural tendency to prefer indolence to industry' and saw assistance as worsening the problem; the religious camp saw poverty as 'the inevitable outcome of vice' and provided direct charitable relief to the poor. Kevin Bales, 'Early Innovations in Social Research: The Poverty Survey of Charles Booth' (PhD Thesis, University of London 1994) 242.

²³ Englander (n 18).

'reduced investment' in land improvement and 'increased fertility by the poor'.²⁴ However, contemporary accounts revised these calculations by the commission and reassessed the expected impact of the reform at the time to find mistaken conclusions and no clear gains in economic growth. In fact, as is often indicated, the report is disconnected from the data that was collected as it was organised prior to the completion of the actual empirical research.²⁵

The Victorian, New Poor Law was enacted in 1834 to amend relief practices by targeting the localism of relief administration and seeking to tackle the indolence of the able poor by reviewing the provision of outdoor relief (i.e. relief not requiring admission to an institution such as a workhouse). The new centralised system of relief prescribed national uniformity of standards and an institutional structure, with councils, regional unions and boards of guardians. The Poor Law Commission, and later Board, oversaw and administered the Poor Law's implementation and issued periodic reports on its proceedings, regulations, expenditure and outcomes having inaugurated an accounting and accountability system for the local authorities.²⁶ By prioritising workhouses over outdoor relief as the main form of aid, the paupers were to be sheltered and put to strict work, combining punitive, coercive and charitable purposes. The new workhouse-based relief system was designed to discourage the pauper from seeking support by providing less favourable conditions than those provided by poorly-paid work. It included separation of family, imposition of uniforms and compulsory heavy work as tactics to reduce pauperism by making any work a better option – the so-called Workhouse Test. That it might also have made prison seem like a better alternative might have backfired on the nineteenth century reformers.²⁷ As a panopticon-inspired environment of surveillance, purpose-built union workhouses provided a disciplinary environment towards correcting the poor. The new poor law marks a reframing of the idea of poverty as a matter of individual failure, i.e. from the idle and morally vicious poor sponsored by relief practices to the volitional pauper with criminal and corrupt inclinations. It was widely believed that those who were poor were indeed unwilling to work, despite the intensifying scarcity of

²⁴ Clark and Page (n 13).

²⁵ Englander (n 18) 13.

²⁶ Stephen P Walker, 'Accounting, Paper Shadows and the Stigmatised Poor' (2008) 33(4-5) *Accounting, Organizations and Society* 453.

²⁷ Laura Foster examines the diverse and contradictory representations of the workhouse in literary and cultural works. She indicates that comparisons of the workhouse to the prison were present in nineteenth century periodicals and that there were reports of paupers damaging workhouse property so as to be sent to prison. Laura Foster, 'The Representation of the Workhouse in Nineteenth-Century Culture' (PhD Thesis, Cardiff University 2014) 133.

work at the time;²⁸ the notion of unemployment was only to be acknowledge as a social problem in the second half of the nineteenth century.²⁹ In this respect, the new poor relief practices were forged to promote a change of posture and work ethics. Although the system has been transformed throughout the years, responding to scandals and criticism, as well as becoming more flexible about outdoor relief than it is commonly believed, historical revisitations also point out that the new system was unsuccessful in reducing relief costs as originally promised. As a legacy, the poor relief system is frequently described as a hotbed for twentieth century welfare policy by having initiated a modern administration of social provision. Such technical development, on the other hand, is often recognised as composing a vilified version of poverty, inscribing elements of fear and shame into stigma – not to mention containing revolts.³⁰

Although the Poor Law was only officially extinguished in 1948, by the end of the nineteenth century, the meaning of poverty had already been significantly reframed. The idea of providing localised relief, even if administered centrally, began to be lose support as technologies of production and food distribution underwent a revolutionary change and the problem of poverty also began to appear as much more of an urban calamity – despite the fact that poverty itself is, still today, primarily a rural rather than an urban phenomenon – with slum formations providing visible indicators in cities across the world. The notorious traces of squalor, vice and immorality in the images of slums were the determining factors by which such areas were seen as infectious perils in need of remedy and containment – the most infamous of which was London's East End.³¹ Its way of being seen embodied its way of being remedied: as something that was misplaced, slums were relentlessly displaced and remade until they disappeared completely.³² The objectionable presence of slums in Victorian cities was to propel the formation of a series of historic urban planning strategies that were then rehearsed and re-instantiated worldwide, most

²⁸ Samantha Shave, *Pauper Policies: Poor Law Practice in England 1780-1850* (Manchester University Press 2017).

²⁹ Bales (n 22).

³⁰ Walker (n 26); Shave (n 28).

³¹ Slums were, at the time, mostly seen as 'an amalgam of dilapidated housing, overcrowding, disease, poverty, and vice. [...] a place where an incorrigible and feral social "residuum" rots in immoral and often riotous splendor.' Davis (n 78) 22.

³² Although not without conflict, resistance, scientific and political disputes, advancements and retreats, negotiations, defeats and, most importantly, shifting ways of seeing slums, as shown in James A Yelling, *Slums and Slum Clearance in Victorian London* (Routledge 1986).

notably the first legally prescribed slum clearances and later the peri-urban resettlement strategies.³³

As industrialisation and urbanisation transformed industrial towns in terms of population and daily life, problems of public health and chronic disease gained attention – especially cholera and typhoid in the 1930s. The association of poverty with insanitation entailed a pathologizing view of social problems at large, with much attributed to (im)moral behaviour. A 1842 report by Poor Law Commission member Edwin Chadwick, on *The Sanitary Condition of the Labouring Population of Great Britain*,³⁴ describes the filthy and disease-spreading conditions in which the poor lived. The correlation between disease and degeneracy embedded in theories that conflate ‘physical and moral dirtiness and ill health’ formed the basis of the agenda of early sanitary reforms.³⁵ Such early reforms focused on the (hygienic and moral) clearing up of the densely populated areas of slums, much like the regimes of cleanliness by which workhouses operated.³⁶ These ideas were also fuelled later in the century by social Darwinism and eugenics as scientific claims that sustained the perceived heredity of the pathological conditions of the poor, the criminals and the racialised, as will also be seen in the next cluster of poverty administration.

It is in this earlier climate, though, that a growing interest to understand (and reform) social malaise had developed. Knowledge practices by the mid-nineteenth century constituted first-hand observations and the use of ordinary people as informants.³⁷ Immersive observations and small-scale surveys were popular, an example being Engels’ aforementioned *The Condition of the Working-Class in England*.³⁸ Another important investigation often mentioned is Henry Mayhew’s *London Labour and the London Poor*, a journalistic observation and description of the state of working people on the streets of London, originally written as a series of newspaper articles.³⁹ But the conditions of the poor and urban populations were also of wide interest and ‘a topic of public discussion’ inciting curiosity and appeal for the middle-classes. While workhouse visits were iconic at

³³ Landmarks on this point are the Artisans’ and Labourers’ Dwellings Improvement (Cross) Act 1875, which enabled compulsory purchases, and the Housing of the Working Classes Act 1885 and 1890, which penalised landlords of unhealthy tenements and mandated the purchase of land for the construction of housing estates, consecutively.

³⁴ See Edwin Chadwick, ‘Report on the Sanitary Condition of the Labouring Population of Great Britain’ (Michael W Flinn ed, first published 1842, Edinburgh University Press 1965).

³⁵ Alison Bashford, *Purity and Pollution* (Macmillan 1998) 117.

³⁶ Foster (n 27).

³⁷ Bales (n 22) 95.

³⁸ Engels (n 29).

³⁹ See Henry Mayhew, *London Labour and the London Poor; Cyclopaedia of the Condition and Earnings of Those that Will Work, Those that Cannot Work, and Those that Will Not Work* (Griffin, Bohn, and Co. 1861).

the time, immortalised by literary movements, the fascination with the poor also included experiences such as ‘slumming’ expeditions and personal, first-hand experience of rough-sleeping and taking up lodgings in the East End.⁴⁰ Of course, the resulting narratives of poverty as anomie – one evoking affects such as fascination, disgust, hatred, curiosity, fear, condescendence, altruism – reflect a conventional take. But there were other dissenting voices, including those of growing trade unions which emphasised problems of unemployment, as well as socialists dedicated to critiquing the economic structures and liberals who would soon lead social reforms with an emphasis on welfare provision.⁴¹

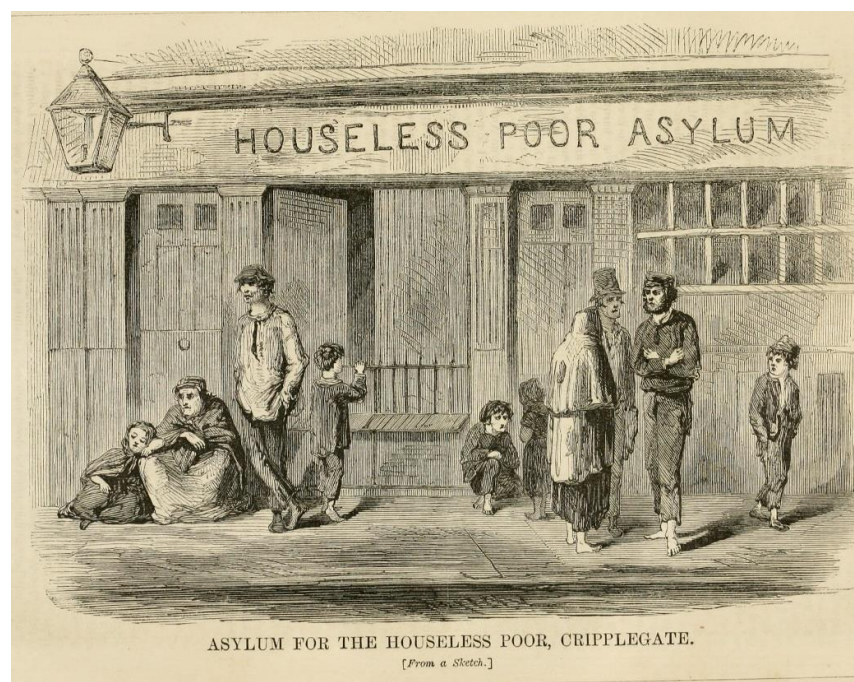


Figure 2: Illustration from Henry Mayhew’s *London Labour and the London Poor* (1861).⁴²

Meanwhile, the relief system remained much more focused on rural poverty, but it was also gradually altered by successive legal innovations⁴³ or simply by administrative changes in Poor Law practices.⁴⁴ In 1905, another Royal Commission on the Poor Laws and Relief of Distress was appointed to investigate changes to the relief system. This commission also conducted an extensive investigation, with statistical work, interviews and cross-country

⁴⁰ Foster (n 27) 133-134.

⁴¹ Bales (n 22).

⁴² Figure 2 attribution: Image from Wikimedia Commons, Internet Archive Book Images, original illustration from Henry Mayhew, *London Labour and the London Poor* (n 39). The copyright is in the public domain, licensed under the terms of no known copyright restrictions.
<https://upload.wikimedia.org/wikipedia/commons/7/7d/London_labour_and_the_London_poor%3B_a_cyclopedia_of_the_condition_and_earnings_of_those_that_will_work%2C_those_that_cannot_work%2C_and_those_that_will_not_work_%281861%29_%2814740863296%29.jpg> accessed 29 June 2020.

⁴³ Examples cited are the 1846 Act of Parliament and the Irremovable Poor Bill 1861, which protected from removal certain profiles such as the ‘irremovable pauper’; and the Union Chargeability Act 1865, which made the Poor Law Union the site of settlement and further reduced removability terms.

⁴⁴ Englander (n 18).

field work. Internal disputes were marked by different perspectives and agendas and the commission ended in 1909 with two notorious reports – the majority and the minority reports, with the latter receiving much attention in the following years as ‘the first rough blueprint for the establishment of the Welfare State’.⁴⁵ At the time, a series of social policy innovations were already being driven by legislation, such as the Workmen's Compensation Act 1897 and 1906, the Old-Age Pensions Act 1908, the National Insurance Act 1911 and the Labour Exchanges Act 1909. It was a time of rapid and combined change in thought, policy and legislation.

At the turn of the twentieth century, scientism was increasingly incorporated into the social survey movement and, as a result, it gradually shifted the perception of poverty as a social problem. Reform-oriented researchers could observe symptoms of industrialisation in the urbanisation of poverty, in fluctuations in employment levels, the organisation of workers and so on. Indeed, empiricism in poverty research has played a crucial part in shifting poverty perceptions towards structural considerations of the contexts surrounding poverty – squalor, delinquency, disease, vice, substandard housing. The prevailing perception of poverty gradually came to embrace systemic explanations, rather than emphasising individual responsibility.⁴⁶



Figure 3: Gilbert Wheatley, charged with loitering with intent to commit a felony, North Shields Police Station (1904).⁴⁷

⁴⁵ Bales (n 22) 318.

⁴⁶ Bales (n 22) 13-14.

⁴⁷ Figure 3 attribution: Image from Wikimedia Commons, Tyne & Wear Archives & Museums, ‘Gilbert Wheatley, arrested for loitering with intent to commit a felony’ (1904). The copyright is in the public domain, licensed under the terms of no known copyright restrictions.

Increasingly rationalised, empirical and positivist methodologies propelled the emergence of the modern social sciences. Influential studies at the time, in particular those using the ground-breaking, large-scale social survey method developed by relevant names such as Charles Booth and his contemporaries, revolutionised poverty measurement through a societal approach and by means of quantifiable data. The many editions and volumes of Booth's *The Life and Labour of the People in London*,⁴⁸ resulting from seventeen years of research, gave rise to a scientific milestone in studies of society now based on empirical, quantitative, positivist survey methods and destined not to formulate grand philosophical theories but to inform social policy.⁴⁹ Booth's investigation relied both on official documents, such as census and records, and on first-hand methods of observation, accompanying School Board visitors and policemen in addition to conducting interviews in households, factories, asylums and workhouses,⁵⁰ in order to calculate standards of household minimal needs and to create a class stratification system. The study is influential for many reasons and I highlight here its ambition to determine empirically the definitions of poverty – first, by categorising levels and modes of living into eight social classes above and below a set poverty line; and, second, by establishing a spatial distribution of poverty through a visual-cartographic method. The make-up of the poor and the very poor – classes A, B and C below the poverty line – took into consideration income as well as questions of circumstances (e.g. family composition, illness, age), underemployment (e.g. irregularity of work, low pay), and habits (e.g. drinking, idleness). Progressively, moral causes of poverty as resulting from vice were demystified – Booth himself changed his view in the process of his research – and state interventions were to be pressed, for example, with pension and allowance schemes for those who are unable to provide for themselves (the old, the young and the sick).⁵¹

<[https://commons.wikimedia.org/wiki/File:Gilbert_Wheatley,_arrested_for_loitering_with_intent_to_commit_a_felony_\(23627265035\).jpg](https://commons.wikimedia.org/wiki/File:Gilbert_Wheatley,_arrested_for_loitering_with_intent_to_commit_a_felony_(23627265035).jpg)> accessed 29 June 2020.

⁴⁸ See in Charles Booth, *Life and Labour of the People of London* 17 vols (Macmillan 1889-1903).

Also in LSE Library's digital archive 'Charles Booth's London Poverty maps and police notebooks' available at <<https://booth.lse.ac.uk/about>> access 15 April 2018

⁴⁹ Although reacting to the trend of slum inquiry by composing a scientific investigation of poverty prior to developing his research methods, Booth himself 'experienced first-hand the lives of his research subjects by taking up lodgings in the East End soaking up the 'feel' of the place, making notes, following the lives of other lodgers, and getting a notion of their life-styles and life histories'. Bales (n 22) 111.

⁵⁰ Michael Gordon, 'The Social Survey Movement and Sociology in the United States' (1973) 21(2) Social Problems 284.

⁵¹ Bales (n 22).

The use of maps to present research findings is also an innovation that has influenced many other researchers thereafter, initiating a spatially nuanced perception of urban poverty that would soon also incite views of environmental determinism as well as urban renewal strategies.



Figure 4: Booth's 'Map Descriptive of London Poverty' (1898-1899).⁵²

⁵² Figure 4 attribution: Image from London School of Economics and Political Science, Charles Booth, 'Map Descriptive of London Poverty 1898-1899', Sheet 1 (Eastern District). The copyright is in the public domain, licensed under the terms of no known copyright restrictions. <<https://booth.lse.ac.uk/>> accessed 29 June 2020.

Along with Booth, several other social surveys in England marked the turn of the twentieth century. Seebohm Rowntree's study of the living conditions of the poor in the city of York in 1899-1901 is a recurrent mention in the literature, with the succeeding reimplementations in 1936 and 1950 providing an overview of the rapid variations in poverty levels over a period of major changes in policy.⁵³ Rowntree further innovated the methods of calculating a poverty line and established a concept of poverty based on low income, i.e. insufficient earnings to maintain physical efficiency. He was also innovative in measuring the threshold that separated primary and secondary poverty by contrasting a household's food budget and wasteful spending as well as in establishing a life-cycle of poverty standards variability in relation to a fixed poverty line.⁵⁴ Later on, Arthur Bowley and Alexander R Burnett-Hurst's *Livelihood and Poverty* is another influential study, this time conducted in various towns of England in 1912-13. Here, the researchers revised Rowntree's standards of measuring poverty with more advanced statistical methods of calculation.⁵⁵

Fewer studies are mentioned in accounts of the history of poverty knowledge outside of the UK at the time. In the USA, Jane Addams and Florence Kelley's 1895 *Hull-House Maps and Papers* on Chicago's settlement houses mapped and described demographic profiles and social patterns of diverse resident groups.⁵⁶ More widely known today, WEB Du Bois' 1899 *The Philadelphia Negro: A Social Study* is considered the main early sociological and empirical study of the conditions of a black community in the United States.⁵⁷ Du Bois was also a pioneer in producing empirical, statistical data visualisation using methods of photography, charts and elaborate infographics.

⁵³ Seebohm Rowntree, *Poverty: A Study of Town Life* (Macmillan 1901).

⁵⁴ Howard Glennerster, 'The Context for Rowntree's Contribution' and 'Poverty policy from 1900 to the 1970s' in Howard Glennerster et al (eds), *One Hundred Years of Poverty and Policy* (Joseph Rowntree Foundation 2004).

⁵⁵ Arthur Bowley and Alexander R Burnett-Hurst, *Livelihood and Poverty: A study in the Economic Conditions of Working-Class Households in Northampton, Warrington, Stanley and Reading* (G Bell 1915).

⁵⁶ Jane Addams and Florence Kelley, *Hull-House Maps and Papers* (Crowell 1899).

⁵⁷ WEB Du Bois, *The Philadelphia Negro: A Social Study* (first published 1899, University of Pennsylvania Press 1996).

Another survey frequently mentioned in the USA is Kellogg's study of Pittsburg (1909).



Figure 5: W.E.B. Du Bois' Infographics, prepared for the 'American Negro Exhibit' at the Paris *Exposition Universelle* (1900).⁵⁸

Du Bois' work is particularly relevant in this thesis in which the aesthetic feature of poverty knowledge and the spatial distribution of poverty are mutually implicated. Du Bois' work can be seen as inscribing a new visual economy of African Americans – as well as being a precursor to spatial understandings of poverty – as a way to challenge the common association of blackness with innate degeneracy. Du Bois articulates an 'environmental' view of poverty, whereby criminal behaviour is created by disadvantageous social conditions which black populations inhabit, rather than being an inherent predisposition to antisocial behaviour. Poverty is, thus, framed as the environment itself, the material setting that people inhabit of run-down houses and unpaved streets which shapes social character.⁵⁹ Differently from what today is framed as an 'environmental determinism' – which nurtures ideas of a determinable 'culture of poverty', as will be seen – Du Bois's challenge to the mode of thinking of social problems of his time was to indicate that

⁵⁸ Figure 5 attribution: Image from The Public Domain Review, 'W. E. B. Du Bois' Hand-Drawn Infographics of African-American Life (1900)'. The copyright is in the public domain.
<https://www.flickr.com/photos/publicdomainreview/albums/72157678269237891/with/32610916582/>
 accessed 1 August 2020.

⁵⁹ Shawn Michelle Smith, *Photography on the Color Line: W. E. B. Dubois, Race and Visual Culture* (Duke University Press 2004) 93.

people are a product of their environment. It is important to take notice of the prevailing biological deterministic thinking at that time which – also scientifically – enabled a very detrimental and long-lasting correlation to be drawn between poverty, crime and race. The process through which poor populations have historically been associated with criminality had been powerfully sustained by eugenicist, social Darwinist views of the criminal, as biologically stricken by a ‘genius of crime’.⁶⁰ The social environmental perspective from Du Bois was in contention with scientific racism and indicated that any inclinations, behaviours or impulses held by populations subjected to poverty were responses to the conditions under which such populations had to strive. This is very different from ascribing a behavioural cause to poverty, as will be forged in mid-late twentieth century theory.⁶¹ I will pick up on this point in the next section.

To conclude this first cluster, at the turn of the twentieth century, political, economic and social studies of poverty were widely established as fields of research. Not only was this a moment of innovative research, as poverty researchers were part of commissions or organisations that pressed for legal reforms and innovations in social policy design, it was also a historic period for political and institutional change. Booth himself was a member of the Royal Commission on the Poor Laws and Relief of Distress in 1905 and, before that, the Royal Commission on the Aged Poor, among many other public positions. The century to come would witness an academic consolidation of poverty research and a model of social policy-making to meet measured needs.⁶² It also propelled the international expansion of an institutional industry of experts by means of the professionalisation of policy and philanthropy.

However, contrary to what this narrative seems to imply in terms of scientific ventures informing legal reforms and building up a public responsibility to face the problem of poverty (even when this very link is put to question when law commissions formed of experts seem to report their findings in often-questioned terms), I have instead demonstrated how it is law – i.e. broadly construed legal practices – that creates categories in the first place which will then be used to inform the empirical experiments of social research. The centuries-old figure of the vagrant, legally drawn to assemble objectionable behaviours of diverse kinds, is the guiding principle behind scientific

⁶⁰ Peter J Hutchings, *The Criminal Spectre in Law, Literature and Aesthetics: Incriminating Subjects* (Routledge 2014).

⁶¹ The most controversial example being Oscar Lewis, *Five Families: Mexican Case Studies in the Culture of Poverty* (Basic Books 1959).

⁶² As described in Bales (n 22).

investigations that – even if not explicitly so – attempt to map out the populations bearing the traits of idleness, criminality, atypical familial composition and substandard health, housing and sanitary conditions. The objectionable image of the poor still refers to the mobile vagrant, the insalubrious slum dweller, the indolent pauper. It is also through diverse and perhaps seemingly disconnected legal practices that the territorialisation of poverty is established – for example, in the formation of the slums of the early industrial towns – and then successively transformed through slum clearances and reconstructions. Law's role in the formations, removals and remaking of slums is an important insight to be emphasised in this thesis, rather than considering the marginalised territories of poverty as excluded from the urban landscape. This is also a point made in chapter 1 where I indicated how poverty is not to be simplistically construed as the negative pole in relation to wealth, as an exclusion. Rather poverty, and its territories and populations, are actively made as such. Law establishes the conditions for poverty to be seen and/or concealed and it is such conditions of visibility that knowledge practices later seek to apprehend. Science measures and inscribes the symptoms, the indicators of a legally formed poverty design – not objective traces of poverty, as if there was such a concrete and essential materiality. It is to these symptoms, the legally established behaviours, cultures and inclinations of lives in poverty that science tries to explain.

2.2 Criminalised poverty

In tandem with the history of Victorian poor relief, another very important history unfolded: the gradual path towards the global abolition of slavery in the nineteenth century, along with the so-called New Imperialist expansion at the turn of the twentieth century.⁶³ What has been presented above as a pathologizing scientific mode of practice in regards to poverty – i.e. where poverty was seen as an innate trait of the abnormalized figure of the deviant, crime-inclined poor, forming the basis of the science-based justification of early reforms in England regarding treatment and correction – gets aggravated when race is added to the equation, as is clearly evident in relation to the practices of scientific racism and eugenics. As the formerly enslaved and racialised

⁶³ Whilst the English experience with race and poverty is usually associated with its imperialist control in Africa and Asia in the late nineteenth century, there is substantial historical investigation documenting the earlier black and poor presence in Britain, including measures of 'resettlement' or 'repatriation' undertaken as a matter of policy. For example, Norma Myers, 'The Black Poor of London: Initiatives of Eastern Seamen in the Eighteenth and Nineteenth Centuries' (1994) 13(2-3) *Immigrants & Minorities* 7; Stephen J Braidwood, *Black Poor and White Philanthropists: London's Black and the Foundation of the Sierra Leone Settlement 1786-1791* (Liverpool University Press 1994).

populations of the world joined the poor populations as the labouring poor, complexity was added to the appraisal of poverty. Poverty, race and crime emerge as the inescapable variables forming the urban problem of poverty in the nineteenth century, a triangular consensus that, still today, seems unbreakable. Particularly in the United States of America, the element of raciality in poverty and crime is acute and has been central since the early stages of social research. The 'racial breakthrough' in poverty knowledge, termed 'the Negro Problem' and pushed in studies such as the abovementioned work of Du Bois, was particularly acute during the post-reconstruction era and as a reaction to the unprecedented 'black migration' from the south which 'changed the "face" of urban poverty'.⁶⁴



Figure 6: Freedman's Bureau Poster, reads: 'An Agency to Keep the Negro in Idleness at the Expense of the White Man' (1866).⁶⁵

⁶⁴ O'Connor (n 8) 74.

⁶⁵ Figure 6 attribution: Image from Library of Congress, unknown author, 'The Freedman's Bureau! An agency to keep the Negro in idleness at the expense of the white man. Twice vetoed by the President, and made a law by Congress. Support Congress & you support the Negro. Sustain the President & you protect the white man'. Published in: American political prints, 1766-1876 / Bernard F Reilly. Boston: GK Hall, 1991, entry 1866-6. (No known restrictions on publication). <<https://www.loc.gov/item/2008661698/>> accessed 13 August 2020.

In order to understand how the tripartite association of poverty-race-crime plays out it is crucial to recognise that the history of the science of crime developed in parallel, and at times intersecting, with that of poverty research. While remaining separate, as specialised fields, both worked together to innovate methods of inscription, abstraction and visualisation in the study of social problems. Together they produced systematic connections between the scientifically-created categories of crime, poverty and raciality, i.e. the supposed typical modern social problems around which the social sciences advanced. As a modern discipline, criminology is relevant to examine in this chapter not only for the concrete effects of its undertakings but also because contemporary critical criminology recognises the role of its own disciplinary history in the invention of its object of investigation, i.e. crime. Besides offering a critical self-assessment that is missing in poverty research, the history of criminology allows me to demonstrate another step towards the shift from a scientific approach to social policy to a technical expertise approach, which I am outlining in this chapter. Here is how this disciplinary history is generally told:

In its early formulations, classical criminology set out to investigate crime and punishment premised on a liberal, humanist and utilitarian critique of the sovereign's right to punish. Prominent names like Cesare Beccaria and, again, Jeremy Bentham established the rationalised perspective of penology and crime deterrence.⁶⁶ The circumscription of criminology's object of inquiry raised debates from the outset. In the absence of an independent category of crime with inherent properties, criminologists – much like poverty investigators later on – set out to investigate the acts and behaviours that law defined as criminal. An inherently tautological definition is therefore present from the early stages of criminology. In the context of the pathologizing tendencies of the nineteenth century, positivist criminology, concurrently, set out to investigate the subject of crime, i.e. the criminal type, as a deviant clinical condition with detectable physical indicators and behavioural patterns. With prominent investigators, such as Cesare Lombroso and Alphonse Bertillon, the study of human differences, anthropometrics and physiognomy, thrived under a growing consensus on social Darwinism. Taking physiological and mental faculties to the centre of scientific scrutiny, the aetiology of crime would draw the primary correlation between poverty and criminality from a biological scientific perspective.

⁶⁶ On the prominent names that built criminology and its various schools of thought: Nicole H Rafter, *The Origins of Criminology: A Reader* (Routledge 2009).

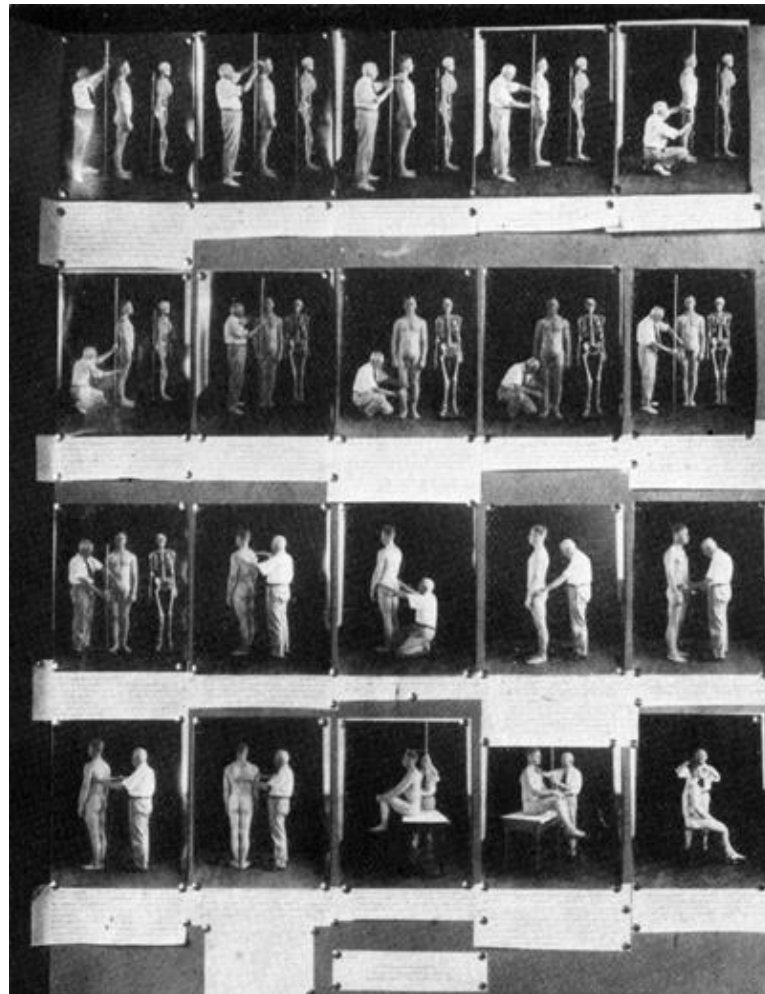


Figure 7: 'Photographs Depicting Anthropometry', the Second International Exhibition of Eugenics (1921).⁶⁷

It is telling that early criminologists investigated the determinants of crime by taking the prison population as the universe of study, disregarding methodological problems related to penal selectivity – that the prison population is not a universe of criminals but a universe of criminalised subjects. The so-called 'dark figure of crime' term, which explains how only a fraction of crimes are registered, elucidates the difference between the perceived and the actual crime rate.⁶⁸ The dark figure is the reality of crime which is left unseen, unregistered, off the records. It is that which traditional, positivist criminology would overlook while measuring criminality and examining the statistics of crime to deduce conclusions about crime and criminals in society (e.g. by interpreting the profile of carceral populations as a pure reflection of the profile of the criminals in society instead of

⁶⁷ Figure 7 attribution: Image from Wikimedia Commons, 'A Set of Photographs Depicting Anthropometry - the Measurement of Humans'. Exhibit photograph scanned from: Harry H Laughlin, 'The Second International Exhibition of Eugenics held September 22 to October 1921, in connection with the Second International Congress of Eugenics in the American Museum of Natural History, New York' (Baltimore: William & Wilkins Co, 1923). The copyright is in the public domain, licensed under the terms of no known copyright restrictions. <https://commons.wikimedia.org/wiki/File:Anthropometry_exhibit.jpg#file> accessed 29 June 2020.

⁶⁸ See Edwin Sutherland, 'White-Collar Criminality' (1940) 5(1) American Sociological Review 1.

only those who are the most criminalised in society). Of course, measures to overturn this methodological problem have been attempted, for example with victimisation surveys.

Such surveys are a mechanism first introduced to socio-legal theory by means of critical criminology scholarship, deflating statistically grounded truth claims by revealing a major gap: the underreporting of crimes. Thus, 'penal selectivity' is the concept that explains how the partial and apparent crime rate and the resulting statistics around it have been forged by the operations of a penal system that punishes selectively. Hence the evident conclusion that the totality of the prison population does not correspond with or reflect the universe of a so-called criminal population. Unsurprisingly, scientific connections were also drawn between the profiles of criminals and the traits of colonised, racialised and abnormalized peoples, establishing the grounds of scientific racism.

The development of such scientific practices was also accompanied by legal practices, as I have been emphasising in this chapter, with both determining and determined by one another. The ways in which legal practices have accompanied these ideas, can be illustrated by the so-called rationalisation of punishment. It is again with Bentham's aspirational prison reform in the image of the panopticon that, like the workhouses, institutional internment became a mode of discipline, surveillance and/or treatment. Foucault's influential work on this topic demonstrates the rationalisation of crime and punishment through an optical and technological shift – from the spectacle of punishment to more pervasive forms of surveillance, from public exhibition of corporal punishment to secluded confinement and increasingly leading to biopower permeating through the fabric of social life. The optical reference is particularly relevant for the analysis I develop in this thesis, particularly in the next chapter. The 'panoptic gaze', the visibility of surveillance in the disciplinary society, entails the deployment of social control to increasingly diverse spaces, monitoring behaviour and producing classifications of the normal and the abnormal, deviant, criminal.⁶⁹

As social sciences advanced in the twentieth century, structuralist interpretations became prevalent, particularly in regard to the Durkheimian functionalist approach to deviance and crime as inevitable and indeed functional conditions of social life.⁷⁰ Similarly, and against the essentialised association of poverty and race, Du Bois can be seen to have

⁶⁹ The visibility of legal techniques is an insight by Foucault, which greatly influenced critical criminology. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Random House 1977).

⁷⁰ Émile Durkheim, 'The Rules of Sociological Method' in Scott Appelrouth and Laura D Edles (eds), *Classical and Contemporary Sociological Theory: Text and Readings* (Pine Forge Press 2007) 95.

attempted a new portrayal of the black population in the USA, by showing 'nonpoor' depictions of blackness at the same time as he promoted social surveys that attributed the preordained misery of black lives to an external injustice.⁷¹

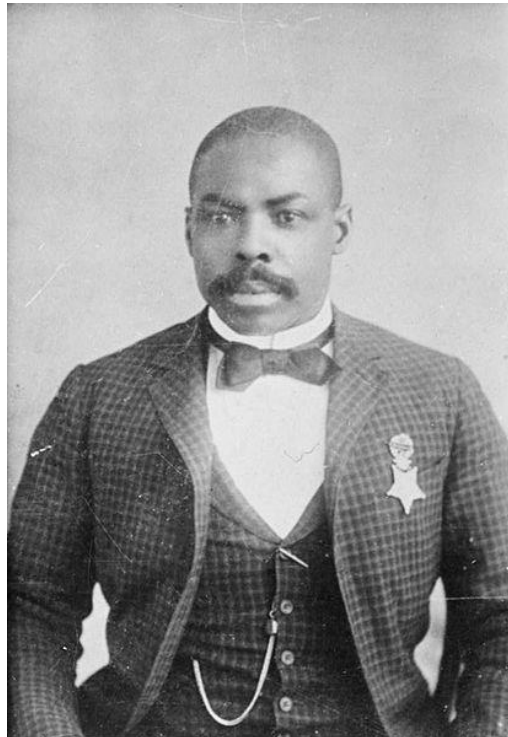


Figure 8: W.E.B. Du Bois' 'American Negro Exhibit' at the Paris *Exposition Universelle* (1900).⁷²

To be sure, notions of deviance – pathologizing and attributing responsibility to the poor – have never been as entirely overcome by sociological perspectives as it tends to be believed. In fact, the notion of deviance is continually revived in the history of the social sciences and is present – although not always overtly – in the mid-twentieth century widely accepted theory of the culture of poverty, which was initially developed by Oscar Lewis.⁷³ Having developed an ethnography of poor Mexican families, Lewis attributed multigenerational poverty to values and behaviours passed down from generation to generation and which perpetuated the 'cycle of disadvantages' – including apathy, dependency, marginality, lack of shared values with society at large, deviant sexual practices, etc. In a nutshell, socially rather than individually constructed poverty was seen

⁷¹ Smith (n 59).

⁷² Figure 8 attribution: Image from Wikimedia Commons, WEB Du Bois, 'Isaiah Mays, Medal of Honor recipient. This photograph was part of the material prepared by W.E.B. Du Bois for the Negro Exhibit of the American Section at the Paris Exposition Universelle in 1900 to show the economic and social progress of African Americans since emancipation' (1900). The copyright is in the public domain, licensed under the terms of no known copyright restrictions. <https://commons.wikimedia.org/wiki/File:Isaiah_Mays.jpg> accessed 29 June 2020.

⁷³ Lewis (n 61).

as formed by the poor themselves, and therefore as a phenomenon resistant to external interventions. Another important study supporting associations between crime, race and poverty is Richard Cloward and Lloyd Ohlin's *Delinquency and Opportunity Theory*, which attributed youth delinquency and the gang phenomenon to the community pathology and the social anomie of slums.

As I mentioned, the USA presents a unique environment in which we can see how the notion of a science-informed social intervention can be twisted and revealed as intervention-driven science. This task of exposure is what contemporary critical criminologists and abolitionist scholars have taken on. They show how poverty and race are tellingly engrained in the legal structures of the American criminal system, pointing to the history of slavery and the persistent narrative of racial difference as key features upheld by law's authentication of such engrained associations of poverty, race and crime.⁷⁴ Since the abolition of slavery, the containment of racialised populations has been perpetuated through systematic criminalisation by means of what today have been historically revised as non-violent crimes, such as vagrancy and loitering. Scholars have pointed to the effect of such practices as foremost economic. That is to say, in the aftermath of the US civil war, the formerly enslaved and their descendants have been systematically criminalised and have continued to provide free labour via convict leasing.⁷⁵ Moreover, as is widely known, legal forms have openly normalised racial segregation, as in the so-called Jim Crow system, through which civil rights activists were also framed as criminals – and terrorists – up to the late 1960s for violating the segregation laws.

In the aftermath the Civil Rights Act of 1964, within a context of sustained racially-based institutional violence and urban unrest, two federal policy orientations were introduced in the 1960s. First, the 'War on Poverty' was initiated by the 1964 Equal Opportunities Act, which aimed to promote socioeconomic mobility in low-income areas as a measure of urban intervention. Subsequently, the 'War on Crime' was initiated by the 1965 Law Enforcement Assistance Act, ultimately resulting in federal involvement in local police, courts and prisons.⁷⁶ Soon after, the 1970s marked the advent of what has been termed

⁷⁴ Notably Angela Davis, 'Race and Criminalization: Black Americans and the Punishment Industry' in Wahneema Lubiano (ed), *The House that Race Built* (Vintage Books 1997); See also, in the UK: Paul Gilroy, 'The Myth of Black Criminality' in Martin Eve and David Musson (eds), *The Socialist Register* (Merlin Press 1982) 19.

⁷⁵ Michele Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (Penguin Books 2019).

⁷⁶ Another landmark in codified law which conveys the clear anti-urban disorder intention of the time is the Safe Streets Act 1968, passed in the aggravated context of unrests in the aftermath of Martin Luther King's

the era of mass incarceration by means of the Law and Order legislation trend⁷⁷, which is typically framed as part of the backlash against the civil rights and anti-war movements.⁷⁸ The prison industrial complex was then formed as a military-corporate model, incorporating technology originally created for overseas warfare and then applied to internal, domestic problems, and with increasing private sector involvement.⁷⁹ The explosion in imprisonment rates at that time as well as the overrepresentation of racialised populations within the prison population have been widely reported. So have the effects of public-private investment in equipping police forces and corporate surveillance in public spaces.⁸⁰ Again, a legal history perspective reveals how legislation has reiteratively delineated the contours of the criminal and selected profiles to be criminalised. As a result, new data to be produced thereafter would confirm empirically the criminal inclination of the black and poor urban populations, thus confirming the need for action which resulted in escalating imprisonment – hence producing a continued increase in crime rates that circularly validated its own legislative and policy causes.⁸¹

An important source of data repeatedly raised is the Federal Bureau of Investigation's *Uniform Crime Reports*, which in the late 1950s initiated a nation-wide data gathering practice that compiled the crime rate statistics mostly composed of urban police department arrest rates. That is to say, as a compilation of criminal statistics from law enforcement agencies, this federal reporting practice was criticised for correlating rates of arrest, not convictions, to publicise rises in crime.⁸² The challenges of measuring crime, in fact, are reportedly used as a rationale to further inflate budget allocation and expand

assassination. For an illuminating analysis of the combination of these gestures of anticrime intervention against urban, black and impoverished populations, and as a concurrent cause of the carceral explosion in the USA, see Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Harvard University Press 2016).

⁷⁷ Mona Lynch outlines four different forms of legal change that have been catalysts to the rise of mass incarceration in the USA: 'legislative and other statutory changes to penal codes that have increased the likelihood and lengths of prison terms in jurisdictions across the country. The second form is found in federal case law, particularly 8th Amendment jurisprudence on conditions of confinement and related issues. The third aspect of legal change is in the area of post-sentencing law and policy (especially related to parole release, supervision, and revocation). Finally, the fourth form of legal change has to do with the myriad changes to on-the-ground legal practices related to sentencing and punishment in local courtrooms around the country'. Mona Lynch, 'Mass Incarceration, Legal Change, and Locale: Understanding and Remediating American Penal Overindulgence' (2011) 10(3) *Criminology & Public Policy* 674.

⁷⁸ Tony Platt, 'U.S. Criminal Justice in the Reagan Era: An Assessment' (1987) 29 *Crime and Social Justice* 58; Hinton (n 76).

⁷⁹ Platt (n 78).

⁸⁰ Platt (n 78); Hinton (n 76).

⁸¹ Elizabeth Hinton provides a very informed analysis of the interplay between social sciences, policy and law in the production of statistical depictions of black criminality in the context of the 'wars' on poverty, crime and drugs, from which I have mapped the relevant studies that I highlight in what follows. Hinton (n 76).

⁸² Alexander (n 75); Hinton (n 76).

punitive practices in the criminal justice system,⁸³ leading to increasingly specialised and computerised forms of data processing and cross-referencing, which, as will be seen, came to dominate the end of the twentieth century. Another relevant study often cited as being influenced by the abovementioned culture of poverty perspective, was Daniel Patrick Moynihan's *The Negro Family: A Case for National Action* from 1965 (also referred to as the *Moynihan Report*).⁸⁴ It situates cultural deprivation and a tangle of pathology as the root cause of poverty, and poverty, in turn, as the root cause of crime. At the time, it was a very influential report, Moynihan himself being a public servant and the report being published as a policy paper of the US Department of Labor. Thus, the 'culture of poverty' perspective was consecrated as an institutional agenda, particularly with regards to so-called 'matriarchal families'. Likewise, Edward Banfield and James Q Wilson's *City Politics* emphasised personal choice and cultural norms as contributing to urban poverty and criminality – with black cultural pathology particularly figuring as a cause of crime via 'ghetto culture' – and thereby reinforced the common wisdom view that welfare policies produce the problem of the 'underclass'.⁸⁵

In the 1980s, further emphasis was placed on criminal policy with the so-called 'War on Drugs'. Although narcotics control had been initiated earlier in the twentieth century, the Comprehensive Crime Control Act of 1984⁸⁶ officially launched a counterdrug offensive which would be added to by a series of other legal instruments to advance punitive measures – including mandatory minimum sentencing, mass arrests, forfeiture practices and property confiscation – as well as a punitive urban policy and crime prevention measures – which involved the surveillance and policing of segregated urban neighbourhoods, patrolling of borders, the suspension of welfare benefits and reductions in social expenditure, particularly affecting housing projects, while increasing drug enforcement resources.⁸⁷ The effects on the image of the urban landscape have been visible, with rates of poverty, crime, street violence and drug abuse having each been recorded as increasing.⁸⁸ Advanced by the 1981 Military Cooperation with Civilian Law Enforcement Agencies Act, through which tactical police fused with defence agencies to enhance counterdrug (and counter-terrorism) operations, the militarisation of the police

⁸³ A point made by Hinton (n 76) 7.

⁸⁴ See in Daniel P Moynihan, 'The Negro Family: The Case for National Action' (Office of Policy Planning and Research, US Department of Labor 1965).

⁸⁵ O'Connor (n 8).

⁸⁶ Other landmark legislation in the USA includes the Anti-Drug Abuse Acts of 1986 and 1988, known as the 'Drug Free America Act', which increased funds to drug enforcement and drug control programmes.

⁸⁷ Hinton (n 76).

⁸⁸ Elizabeth Hinton provides such detailed rates in Hinton (n 76) fn 13, ch 9.

also promoted transnational cooperation. Indeed, the war on drugs quickly expanded into international territories, particularly in Latin America, many of which had been ruled since the 1960s by military dictatorships closely allied to and sponsored by the USA.⁸⁹ The interventionism against the racialised poor within ‘bad neighbour’ countries was fuelled by a crusade against a purported security threat, which resulted in escalated violence and militarisation in the region – a conjuncture of urban violence that endures today, as will be seen in chapter 5.⁹⁰

These are the general circumstances of a de facto ‘war against the poor’, which illustrates the second trend in poverty administration (spanning knowledge, legislation and policy) that is associated with combating crime and affirming racial difference and is propelled by factors which are distanced from scientific-statistical evidence. Indeed, contemporary analyses show that the policy and legal practices which worked at criminalising and stigmatising black and Latino populations in the wars on poverty, crime and drugs were unsupported by the available data.⁹¹ In contrast to the research agenda that inaugurated classical criminology, in the late twentieth century, critical criminology emerged to examine the process through which crime and criminals are formed, establishing ‘criminalisation’ as its revised object of study. The abstract definition of crime and the practical implications of crime repression for poor and racialised populations and territories were brought to the forefront of the discipline’s *raison d’être*. Under the paradigm of penal abolitionism, useful concepts have been forged to understand the connections of poverty and raciality to crime as sociotechnical constructions.

Critical criminology describes how the scientific approach to such constructions have revealed problems in terms of the objectification and quantification of social interactions as naturalised social phenomena and/or social stratification within political dynamics. The profiles of ‘the criminal’ are reframed as the profiles of ‘the criminalised’, revealing how the latter have been scientifically materialised into an entity, an existing subject, by the selectivity of the penal system and associated legal practices. The visualisation of the criminal in terms of deviation appears as the direct result of legal operations in light of the modern mode of differentiating between normality and abnormality. Like pathologization, the process of criminalisation derives from an undisputed definition and classification

⁸⁹ Emir Sader, ‘The Weakest Link? Neoliberalism in Latin America’ (2008) 52 *New Left Review* 5.

⁹⁰ Ted Galen Carpenter, *Bad Neighbor Policy: Washington's Futile War on Drugs in Latin America* (Palgrave Macmillan 2003). See also: Kwadwo Nyadu Koram, ‘The Sacrificial International: The War on Drugs and the Imperial Violence of Law’ (PhD Thesis, University of London 2017).

⁹¹ Alexander (n 75).

enacted by knowledge practices and anchored in legal framings of the criminal as a genius of crime, now a conditioned subject rather than the volitional individual.⁹²

The image of the criminal is thus revealed as both a frame and a modulation operating upon populations and territories – the ‘dangerous poor’ is but a profiling artifice pressed onto people and places. As such, contemporary critical and abolitionist scholars demonstrate how entire populational segments are archetypally and collectively made into images of criminality. They are not simply framed as criminals, rather the populational labelling process (as, for example, in racial profiling) produces the marker by which crimes are defined in the first place. Factors such as race, gender, age, origin, environment, occupancy, place of residence – in a pervasive intersection with contemporary definitions of poverty – become the features that provide presumptive evidence of dangerousness and criminality. As new crimes are established in new epochs, it seems increasingly manifest that they work as sampling techniques that frame pre-emptively determined populations.

Likewise, entire environments and areas are turned into spaces of crime and violence by territorial stigma. The stigma is ultimately confirmed by higher crime rates resulting from intensified policing and processing of such areas. I have mentioned how concealment of the poor seems to be a persistent continuum, whether in terms of early vagrant removals, pauper foreign emigration, concentration in slums, confinement in workhouses and, most notably now, incarceration in modern prisons far removed from inner cities. But this concealment also takes place through urban segregation and marginalisation into poor, overcrowded and racialised ghettos which have ‘mantained the color line’.⁹³

Thus, a sense of a continuity between the two (at first sight very different) modes of poverty administration scrutinised so far can be verified in the urban planning which they facilitate. As indicated above, the early social survey movement gradually gave rise to the spatial distribution of poverty as matter of a scientific and social concern. This, in turn, gave rise to perspectives on environments of poverty as determining crime-prone or vice-prone profiles, i.e. that the proliferation of criminal behaviour was prompted by disadvantageous social conditions which racialised and poor populations inhabit. Soon enough, ‘environmental determinism’ came to replace the earlier dominant explicative system of ‘biological determinism’ by focusing on aspects of culture and its background – a

⁹² Hutchings (n 60).

⁹³ O’Connor (n 8) 92.

classic example being the so-called 'broken windows theory' and its ensuing 'zero tolerance' policing practices in ghettoised urban areas. As a consequence, racialised divisions and urban segregation themselves work to support the continued containment (seclusion or vanishment) of populations and territories and towards activating ever harsher (and more targeted) penal repression. In chapter 5 I will explore some of the implications of this intricate correlation between intervention strategies and subsequent data production that ends up supporting or validating the interventionist trends, but it is important to stress here that, like in the case of the nineteenth century slum clearances, more recent urban redevelopment and upgrading projects are typically pressed by the need to cleanse and beautify stigmatised areas and therefore to push certain populations further away from the range of vision. This works both at a local level and the global level, as I have mentioned the case of Latin American reverberations of the framework of wars – on poverty, on crime, on drugs, on terror. In fact, Latin America has long been a sort of laboratory for neoliberalism and militarisation, and especially for trialling national security doctrines and strategies against domestic enemies.⁹⁴

The inverted perspective propitiated by critical criminology has been extensively explored in the recent history of hyper-incarceration in the USA in the context of the war on drugs. The rapid rise of the prison population propelled and resulted from an increasing privatisation of the prison system, as well as militarisation of law enforcement in order to provide the infrastructures for the mass imprisonment expansion. These developments, largely accompanied by the late twentieth century retrenchment of welfare institutions, as will be seen next, is often recounted as a transmutation of 'welfare' into 'prisonfare', revealing the penalising responses to growing rates of people falling under the poverty line.⁹⁵ Exposed as a global trend that some scholars termed 'neoliberal penalty', this has involved a widespread context of expansion of the penal apparatus along with punitive welfare policies in the context of a so-called deregulation of the economy and the labour market.⁹⁶ Rising rates of incarceration and expansion of the penal state can indeed be verified worldwide as a continuous trend of carceral inflation.⁹⁷ Construed as a 'poverty

⁹⁴ Sader (n 89).

⁹⁵ Loïc Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Duke University Press 2009).

⁹⁶ Wacquant (n 95).

⁹⁷ The World Prison Population List, periodically compiled by the Institute for Criminal Policy Research at Birkbeck University of London, shows a growth of 24% in the world prison population since the year 2000, with a total estimation of 10,743,619 people incarcerated, not including other custodial institutions beyond prisons, such as immigrant detention centres. The USA has by far the largest prison population in the world,

policy’ rather than an institution that punishes crime, the prison expansion is thus understood as managing the growing social insecurity occasioned by the increasing informalisation of workers, which purportedly includes being pushed to criminalised economies – that is, an insecurity created by the precise measures of the neoliberal thrust.⁹⁸

Other critics warn against framing a so-called neoliberal punitive and imposing project as though essentialised notions of ‘State’ and ‘neoliberalism’ held a unified and material existence, rather than being abstractions formed by multiple contingencies.⁹⁹ Although this is a caveat that I have also signalled from the outset in this thesis, I would remark in this case that what is commonly framed under the marker of ‘neoliberalism’ can often be verified as having been effectively pushed as a very explicit and integrated agenda. This is particularly evident within the geopolitical interplay between countries at the centre and those at the peripheries of another essentialised but also quite operative phenomenon, i.e. ‘global capitalism’, of which the Washington Consensus is just an obvious example of how an imposition can be seen to manifest. To claim that a project is imposed does not need to be an essentialising stand pointing to ideological manipulations in an arena of immanence, but can also suggest a way to conceive of the agonistic nature of contingencies, in which practices of negotiation also include mustered influence, even if temporarily, which is not restricted (or reduced) to institutional politics but also extends to knowledge practices and legal practices that inform or validate policy. The fact that multilateral financial institutions implement such agendas and enforce conditionalities upon its debtors continually re-enacts such impositions, as in the case of the infamous structural adjustment programmes for countries facing economic crisis.¹⁰⁰ Also, to return to the example of the global expansion of the war on drugs, pointing towards an interventionism in Latin America by USA foreign policy can be quickly dismissed as an ideological reading of what is, indeed, a much more complex and multilateral flow of occurrences. But if one decides to approach this ‘imperialist interventionism’ by means of tracing the networks and chains of funds, it is also detectable how ‘generous foreign aid

being described as the epicentre of hyper-incarceration. China and Brazil are next. See Roy Walmsley, ‘World Prison Population List - 12th edition’, World Prison Brief (ICPR/Birkbeck 2018).

⁹⁸ Within Wacquant’s frame of analysis, the incarceration rise is construed as one of the advancements of poverty management within the penal state. Wacquant (n 95).

⁹⁹ Mariana Valverde, ‘Comment on Loïc Wacquant’s “Theoretical Coda” to Punishing the Poor’ (2010) 14(1) Theoretical Criminology 117.

¹⁰⁰ Ananya Roy, *Poverty Capital: Microfinance and the Making of Development* (Taylor & Francis 2010).

packages' have been effective in enabling such a warfare.¹⁰¹ Taking this point to an extreme, corporate lobbying assumes a role, within the configurations here under analysis, that is as relevant or as productive as that of knowledge practices which negotiate agonistically and from which policy or institutional agendas derive.

With these reservations in mind, though, in the next section, I will draw on such nuanced narratives of transformations since the 1970s in which, rather than displacing the welfare state, the neoliberal thrust has transformed it, re-regulating rather than deregulating.¹⁰² To restate my argument and how it translates into this section: law creates categories and parameters for detecting the criminal poor by establishing the typical conducts, populations and territories to be criminalised. Law is continually in this role of making poverty seen and establishing the conditions for poverty to be widely seen. Contrary to what we tend to think, this means that it is not science that finds, examines and formulates what poverty is. It is first and foremost law which creates it and then detects it within a sample of the populations and territories that meet the profile. Science measures and inscribes the symptoms, the indicators of a legally formed poverty design. Furthermore, criminology marks a relevant move towards the shift from a scientific approach to a technical expertise approach to policy that I am outlining in this chapter. It illustrates a crucial change of thinking within a single discipline in the twentieth century, a shift that was also verifiable (indeed intertwined) in social policy. We will now move on to the post-World War II welfare state in order to analyse how the use of theory in policy shifted to a paradigm of testing 'what works'.

2.3 Welfare support

Another direction in which changing interventions in populations and territories of poverty were configured in the twentieth century was that of social welfare reforms, accompanied by increasingly specialised social sciences, legislation and policy. In contrast to the earlier poor laws and labour protection measures, the so-called welfare state aims to establish social security or insurance for various types of social services that manage targeted 'insecurity'. Typically narrated within a historical line of progress from, and replacement of, the earlier poor relief attitude, the welfare state is an interesting mode of social administration to observe.¹⁰³ However, it is important to note how such a narrative is

¹⁰¹ Carpenter (n 90) 26.

¹⁰² Garland (n 6).

¹⁰³ See David Roberts, *The Victorian Origins of the British Welfare State* (Yale University Press 1960).

disputed, with scholars also indicating that reliance on means-tested social assistance was never displaced by the social insurance based model.¹⁰⁴ Also, this narrative often does not account for the practices of criminalisation occurring at the same time, as we have seen. In fact, the concurrent development of social rights and of technologies of containment seen above demonstrate how the twentieth century's model of social provisions is more adequately construed as a hybrid 'penal-welfarism'.¹⁰⁵

That being said, to continue along the segmented analysis of this chapter, for the sake of identifying the common threads that form the compound of knowledge-law-intervention, this separation of seemingly self-contained models of action is methodologically required to start with. The focus here is on the forms of interaction between welfare policy, law and science. I will address the welfare strand of change to demonstrate the ways in which it also presents a marked shift away from early century scientism and towards an end of century prioritisation of technical expertise, or a technical knowledge-based approach aimed at informing policy. It is in a context of experimentations that I frame welfare modes of practice as precursor to what today is the relatively unchallenged method of evidence-based policy-making. It is also under this mode of practice, not contrary to it, that we have seen the contemporary welfare reforms that retrench social expenditures – and indeed the rejection of what is now often reframed as an ideologically motivated (socialist inclined) policy-making.¹⁰⁶ Whilst early social surveys had been reportedly aimed at pressing for reforms and for public policy designs to adequately deal with the 'true nature' of 'social problems' – revealed as such by means of scientific discoveries – the mid-twentieth century idea of welfare has been presented in less scientific and more pragmatic terms, as an interventionist innovation that mobilised knowledge practices by employing experimental approaches to demystify the liberal economic consensus of *laissez-faire*.¹⁰⁷ To be sure, the model is effectively informed by the consistent collection of data via recognised methods of social measurement – I am not suggesting otherwise. However, its inventiveness is the work of strategic policy making and pragmatic planning, fostering approaches that would later be designated as practice-oriented research and evidence-based intervention. To this effect, policy appears in a novel position of testing theoretical propositions and finding cost-effective alternatives to solving social problems. Its increasingly recorded social indicators, developed to sustain policy adjustments and

¹⁰⁴ Glennerster, 'Poverty policy from 1900 to the 1970s' (n 54).

¹⁰⁵ David Garland, 'Punishment and Welfare Revisited' (2019) 21(3) *Punishment & Society* 267.

¹⁰⁶ O'Connor (n 8).

¹⁰⁷ Garland, 'The Welfare State' (n 6).

reorientations, in turn propelled a growing data-production industry to support further analysis of social mobility.

To recount the historical elements that propitiated the formation of governmental arrangements that amount to a 'welfare state' across the so-called advanced industrial nations, scholars typically return to the aftermath of the financial crisis of the 1920s and 30s and the first world war. The interventionist welfare practices initiated by the New Deal in the USA and the post-war European reconstruction plans soon expanded across the globe and became a characteristic – yet widely varied – administrative organisation of the twentieth century. Whilst there are important prefigurations to mention, such as the early century social reforms mentioned above¹⁰⁸ – and, in fact, a more classical origin typically mentioned by historians is the Bismarckian model of the social state in 1880s Germany – the fully consolidated welfare state experience was patently adopted from the 1940s onwards.

A typical and prominent study to mention is that of William Beveridge, who was commissioned to investigate the abolition of poverty and want in the UK and who, in 1942, presented to parliament his report titled *Social Insurance and Allied Services*.¹⁰⁹ Addressing the five giants (squalor, ignorance, want, idleness and disease) the report outlined a social plan which included the extension in coverage of the then existing insurance schemes to the population at large along with a supplementary safety net provision for an expectedly small share of the population that was most in need. Beveridge is thus recognised as having laid the foundations of the modern welfare state, regardless of commentaries acknowledging that the terms of his plan were never fully implemented. In the context of Keynesian economics of reconstruction, state intervention and development, the report found a promising atmosphere for implementing social welfare reforms. Premised on the notion of a social security net for all citizens, beyond the household means-tested provisions that had earlier characterised public social protections, the welfare policy presented specialised instruments to target specific areas of social deterioration. Innovative legislation of the time included the National Insurance Act and the National Health Service Act of 1946 along with other legal instruments that covered increasingly more specialised areas of intervention (children, elderly, health, education, food, to

¹⁰⁸ The aforementioned Old Age Pensions Act 1908 and the National Insurance Act 1911 being the pinnacle of a targeted security scheme.

¹⁰⁹ See William Beveridge, *Social Insurance and Allied Services* (Cmd 6404, 1942).

mention a few).¹¹⁰ With this legal infrastructure – because of it or despite of it, analysts disagree – there flourished a stable period of growth and reduced inequality in the UK.

A similar history of innovative legislation and policy design of social insurances is told with regards to other European and North American countries.¹¹¹ Although they followed diverse liberal and social emphases, continental Western Europe largely adopted post-war social welfare reforms of different scales and institutional architectures. Thus, the broad picture presented here amalgamates varied types and histories in order to extract some common factors that are markedly welfarist, that is: social protection, social rights and social assistance. In that regard, it is important to recognise that the term ‘welfare state’ itself is misleading because very different models of social services are grouped together under this name, such as financial services such as pensions and cash transfers, social services like healthcare, housing and education, as well as other nonmonetary benefits.¹¹² To that effect, I refer to welfare practices in general in order to address the wide spectrum of social policy and, in particular, ‘the distinctive methods and instruments that it deploys to pursue its multiple and various ends’.¹¹³ But because I am concerned with broader global connections traced from the centres of global poverty production (poverty research and intervention), my focus inevitably falls to one side of this spectrum. In contrast with the rest of continental Europe, Britain and the USA share a common liberal emphasis and scholars point to a growing approximation by means of timely changes in the trajectory of the British welfare state towards ‘Americanization’ and to the detriment of European-style social policy – i.e. the deflation of public welfare practices and their increasing subordination to the private market.¹¹⁴

It is interesting to think broadly of welfare states, for a start, as systems of social stratification, of the division and categorisation of populations which social policy will target but also, consequently, cultivate.¹¹⁵ The segmentations by which welfare programmes operate, as such, sustain shared conventions and inform what it means to be poor. Structures of welfare practices work towards social mobility by meritocratic

¹¹⁰ For example, the Education Act 1944, the Family Allowance Act 1945 and the National Health Act 1948.

¹¹¹ Gøsta Esping-Andersen, *The Three Worlds of Welfare Capitalism* (Polity Press 1990).

In other regions of the world there can often be found elements of welfare policy and in the next section it will become clear how, due to competing global trends, national welfare forms of protectionism have not been so spontaneously and systemically created worldwide.

¹¹² Esping-Andersen (n 111).

¹¹³ Garland (n 6) 334.

¹¹⁴ John Holmwood, ‘Europe and the “Americanization” of British Social Policy’ (2000) 2(4) *European Societies* 453.

¹¹⁵ Esping-Andersen (n 111).

achievements but also increasingly provide justifications for inequality based on insufficient efforts. Social stratification here refers to the classifications of social classes that have been initiated and increasingly specialised by the early social surveys. The progressively meticulous separation of classes by distinctive attributes was a strategy to determine an accurate poverty threshold and informed modes of intervention according to actual needs. The twentieth century poverty research has developed continually revised standards of poverty measurement, actualising preceding standards and methods of calculation. Nevertheless, this premise is operative still today, i.e. an absolute measure of poverty as defined by a calculated income level under which people are categorised as poor. As perceptions of poverty have been reshaped to involve more than elements of individual responsibility and moral degeneracy, with work effort and industriousness being demonstrated by social investigators as insufficient factors for prosperity and with unemployment affecting society at large, measures for the elimination of poverty have been structured around full employment, redistributive social support and tax-funded safety net benefits – where the previously mentioned frame of opportunities finds a lot of resonances. Mid-century research tries to apprehend the traps of the life cycle of poverty and to outline strategies on how to avoid them.

In this context, analytic work on measuring ‘living standards’ and perfecting the calculation of poverty lines proliferated. Whilst Rowntree continued to apply his measures as mentioned above, others attempted to update the basis of his calculation. An influential poverty research project along these lines was Brian Abel-Smith and Peter Townsend’s *The Poor and the Poorest* (1965),¹¹⁶ which, contrary to widespread belief at the time, found a marked increase in poverty in the 1960s. Their approach added more variables to the large-scale measurement and delineation of levels of living in the UK, based on data from the Family Expenditure Survey, which went beyond food subsidies and included previously unaccounted for factors (such as rent and other dimensions of social life). This study provided the groundwork for a relative understanding of deprivation, one which varies according to variations in levels of national prosperity. Also, Peter Townsend’s 1979 work on *Poverty in the United Kingdom* is a meticulous study of relative poverty as a matter beyond material deprivation and dietary subsistence standards, and as encompassing the lack of resources for broader customary living conditions.¹¹⁷ Hence, relative poverty is to

¹¹⁶ Brian Abel-Smith and Peter Townsend, ‘The Poor and the Poorest: A New Analysis of the Ministry of Labour’s Family Expenditure Surveys of 1953-54 and 1960’ (LSE Occasional Papers in Social Administration 17, Bell 1965).

¹¹⁷ See Peter Townsend, *Poverty in the United Kingdom* (Allen Lane and Penguin Books 1979).

be understood as social exclusion, an exclusion from customary living patterns and activities. As with preceding studies, innovations in measurement revealed new realities of poverty – child poverty for one, in the case of Townsend.¹¹⁸ Another important study to mention is Anthony Atkinson's *Poverty in Britain and the Reform of Social Security* (1969).¹¹⁹ From an econometric standpoint, Atkinson – after whom the Atkinson index is named – set out to measure inequality and to prescribe policy-based solutions, especially by emphasising income distribution policy, as he would later advocate a basic income. His later work focuses on global poverty and he has chaired the World Bank's Commission on Global Poverty.

In the USA, a prominent name to mention is Mollie Orshansky, who developed in 1963 what came to be the first official nation-wide poverty measure in the USA, which enabled statistical planning in the context of the imminent War on Poverty. Defined in reference to household purchase of minimally adequate amounts of goods and services, Orshansky's calculations took into account the average family's budget for food and the costs of basic food items to establish a poverty line. In 1967 the US Census Bureau published the first poverty report based on the Orshansky Poverty Thresholds. As the first national poverty statistics, the report was based on data from the Current Population Survey Annual Social and Economic Supplement, the nation's oldest ongoing household survey. Poverty data thus appeared in an increasingly numerical, aggregate and complex form, as illustrated in Figure 9. Yet, unlike her predecessors, Orshansky was by no means on a quest for scientific purity. The drive to turn poverty into numbers, a quantifiable and objective reality, was described by Orshansky as a subjective, value judgement task of (circular) definition: one counts the poor to do something about it, and poverty data becomes an artifact, a working tool against which the poor will be measured and classified, i.e. a threshold.¹²⁰ This insight inspired much of the discussion that I present in chapter 3. Other influential studies undertaken at this time include Michael Harrington's *The Other America* (1962) and John Kenneth Galbraith's *The Affluent Society* (1958).¹²¹ These were both influential attempts to characterise poverty profiles, causes and systemic explanations – information that poverty lines cannot provide.

¹¹⁸ Thereafter responded to with the 1970's Family Income Supplement and, later, the Family Credit introduced by the Social Security Act 1986, as well as the Child Benefit.

¹¹⁹ Anthony B Atkinson, *Poverty in Britain and the Reform of Social Security* (Cambridge University Press 1969).

¹²⁰ Mollie Orshansky, 'How poverty is measured' (1969) 92(2) Monthly Labor Review 37.

¹²¹ Michael Harrington, *The Other America* (Macmillan 1962); John Kenneth Galbraith, *The Affluent Society* (Houghton Mifflin 1958).

Table 8.—INCIDENCE OF POVERTY, 1966, 1965, AND 1959: PERSONS IN FAMILIES AND UNRELATED INDIVIDUALS BELOW THE POVERTY LEVEL BY FAMILY STATUS AND COLOR, FOR THE UNITED STATES

(Numbers in thousands. Number of persons relates to the following year)

Color and family status	1966			1965			1959		
	Total	Below poverty level		Total	Below poverty level		Total	Below poverty level	
		Number	Percent of total		Number	Percent of total		Number	Percent of total
TOTAL									
All persons.....	193,424	29,731	15.4	191,535	31,908	16.7	176,479	38,940	22.1
In families.....	181,054	24,910	13.8	179,403	27,142	15.1	165,777	33,864	20.4
Head.....	48,921	6,089	12.4	48,279	6,451	13.4	45,062	8,281	18.4
Children under 18 years.....	69,837	12,503	17.9	69,684	13,990	20.1	63,745	16,637	26.1
Other family members.....	62,296	6,318	10.1	61,440	6,701	10.9	56,970	8,946	15.7
Unrelated individuals.....	12,370	4,821	39.0	12,132	4,766	39.3	10,702	5,076	47.4
WHITE									
All persons.....	170,241	20,126	11.8	168,854	21,687	12.8	156,869	28,231	18.0
In families.....	159,469	16,101	10.1	158,377	17,752	11.2	147,716	24,072	16.3
Head.....	44,021	4,379	9.9	43,497	4,590	10.6	40,828	6,183	15.1
Children under 18 years.....	59,530	7,305	12.3	59,522	8,318	14.0	55,017	11,067	20.1
Other family members.....	55,918	4,417	7.9	55,358	4,844	8.8	51,871	6,820	13.1
Unrelated individuals.....	10,772	4,025	37.4	10,477	3,935	37.6	9,155	4,159	45.4
NONWHITE									
All persons.....	23,184	9,605	41.4	22,681	10,221	45.1	19,610	10,709	54.6
In families.....	21,589	8,809	40.8	21,026	9,390	44.7	18,061	9,792	54.2
Head.....	4,898	1,710	34.9	4,782	1,861	38.9	4,234	2,098	49.6
Children under 18 years.....	10,304	5,198	50.4	10,116	5,072	50.1	8,728	5,570	63.8
Other family members.....	6,387	1,901	29.8	6,128	1,857	30.3	5,099	2,124	41.7
Unrelated individuals.....	1,995	796	40.0	1,655	831	50.2	1,547	917	59.3

Figure 9: First statistical table of poverty estimates published by the US Census Bureau, based on the Orshansky Threshold (1967).¹²²

By aiming to tackle poverty as a trap – be it the cultural factors which cause intergenerational poverty or the social protections themselves which promote inactivity – the most prevalent welfare practices provide remedies for social risks, in terms of benefits for unemployment, sickness and pension insurance. They aim to ensure the poverty-prone populations against the risk of falling into poverty. Indeed, welfare practices target the working or middle classes at large, i.e. the mass of employed workers, as opposed to strictly the poor¹²³ – for which there are, nonetheless, continued forms of poverty-relief such as means-tested income support to help oneself out of poverty, including food stamps, council tax benefits, cash benefits, housing benefits and income support of different kinds. Hence the mentioned premise of welfare intervention is to provide insurance against the social insecurities of poverty and a safety net for those who still need to be relieved from it. In that regard, poverty is here perceived as an economic misfortune inherent to modern societies that some fall into but also can get out of. It is no longer a sort of innate feature but a cultural, behavioural one. It is no longer a pure matter

¹²² Figure 9 attribution: US Census Bureau, '1967 Current Population Report,' displayed in blogpost: Bernadette Proctor and Trudi Renwick, '50 Years of Poverty Statistics' (*US Census Bureau*, 5 September 2017) <https://www.census.gov/newsroom/blogs/random-samplings/2017/09/50_years_of_poverty.htm> accessed 1 August 2020. Originally published without copyright notice in 21 August 1967 in Current Population Reports Series P-60, N 52, available at <<https://www.census.gov/library/publications/time-series/p60.1967.html>> accessed 1 August 2020.

¹²³ Garland (n 6) 338.

of individual responsibility, but also those who do not strive to escape the trap are disparaged for preferring to live on benefits than to work.¹²⁴ In fact, the common critique of welfare practices is of causing dependency, the so-called 'welfare trap' which in some instances – such as where low wages combine with high childcare costs – makes it too disadvantageous for a benefit receiver to find work and risk forfeiting their benefits.

To that effect we also find a broader change in the perception of poverty, from an exclusively income-based view towards a more varied, aggregate and multi-factor socioeconomic composition of poverty, and corresponding policy models in which living standards are secured by public social assistance beyond supplements to labour-derived incomes. Indeed, the nation-based approach to the social rights of citizenship is focused on the advancement towards equality of status rather than equality of income, in terms of targeting class difference by elevating the lower strata to become civilised, educated, active citizens.¹²⁵ Although premised on building equality of opportunity through a bottom-up tactic, policy-led upward social mobility does not encompass a reshaping of class structure. In that regard, the Scandinavian social democratic experience of the welfare state is reported as particularly effective in equalising opportunity without affecting the top social strata but also without abolishing the gap between the top and bottom strata.¹²⁶

Moreover, even though premised on egalitarian commitments as conditions of citizenship, research shows that welfare provisions often operate with unfair terms of eligibility and unequal access 'patterned along class, race and gender lines.'¹²⁷ Albeit very important, particularly because these are precisely the mechanisms through which social stratification is sustained, as mentioned above, these are not the analyses that I focused on. Within the scope of this thesis, it is useful to signal here a point of inflection of new notions of social citizenship rights that have been constructed around 'social problems', including the gradual introduction of the language of rights and entitlements in attitudes toward poverty. The rights-based approach to social security, broadly speaking, emerged as a global consensus relatively early on in the *Universal Declaration of Human Rights* (1948) and the *International Covenant of Economic, Social and Cultural Rights* (1966). Yet, while supported by a growing international network of exchange and cooperation, this paradigm

¹²⁴ What scholars term the 'criminalisation of social programmes' or the 'criminalisation of welfare'. For example: Hinton (n 76).

¹²⁵ Hartley Dean, *Social Rights and Human Welfare* (Routledge 2015).

¹²⁶ Esping-Andersen (n 111).

¹²⁷ Nicola Lacey, 'Theories of Justice and the Welfare State' (1992) 1(3) *Social & Legal Studies* 333.

was also a state-building device, having been incorporated into constitutions and national legal infrastructure across the world as part of nation-based aspirations to delimit citizenship, borders and national identity.

In this regard, critics emphasise that 'social security' is embedded in imperialist affirmation while at the same time it precisely effaces its colonial bedrocks by making – yet again – claims to universality.¹²⁸ Having raised this point, though, I must reiterate that the premise of my argument does not lie in the imperialist-domination arguments of post-development scholarship (though I certainly am in conversation with such scholarship), but it rather concentrates on the complex, multi-sited and cross-cultural exchanges that shape knowledge, law and intervention. In other words, trends in the formation of social scientific concepts, legal rights and social policy designs certainly encompass the various colonial and decolonial underpinnings of the differentiated forms of welfare regimes, particularly in regards to the suggestively termed and racialised 'settler liberalism' welfare state model.¹²⁹ To that effect, colonialism is integral to the welfare state in the sense that both share a history of global divisions and of nation-building techniques. This shared history has also influenced the reversal of welfarism trends from the 1970s onwards, known as the 'neoliberal dismantling' of the welfare state, which, in the UK, coincided with the period of postcolonialism – even though the opposite effect has been verified in France's experience, i.e., one of an inward protectionism, still affected by the same exchanges between welfare in the metropolis and decolonial struggles in the occupied overseas territories.¹³⁰

So, within the terms that I claim my focus rests, how are such transformations construed? As will be addressed in the next clustered developments of poverty administration, an increasingly international perspective on poverty – from which poverty research agendas have become a growing, productive and innovative field – was not simply imposed on the colonial world, but indeed changed domestic perspectives that have also fed back into governance strategies within the 'advanced economies'. The British and North American influence in the rest of the world in setting the tone for the global post-war order also worked the other way around, i.e., by establishing the modes of administration of the

¹²⁸ Gurminder K Bhambra and John Holmwood, 'Colonialism, Postcolonialism and the Liberal Welfare State' (2018) 23(5) *New Political Economy* 574.

¹²⁹ See Bhambra and Holmwood (n 128).

¹³⁰ Factors that explain such different experiences as a reaction to decolonisation are articulated in Bhambra and Holmwood (n 128) who also situate the desegregation in the USA as an occurrence propelling the neoliberal retrenchment in that country.

global poor, the increasingly refined conceptual frameworks, methodologies and 'best practices' were also brought back to what I call the centres of production. An example of this, although debatable according to some views, is the British 1976 'IMF crisis', which led the UK to borrow from the International Monetary Fund and subsequently triggered a turning point to the retrenchments in social policy spending, which was attributed to the austerity measures that were imposed as a condition of such a borrowing practice.¹³¹

Here is another illustration of how my point differs from (and adds to) the general post-development argument typically focused on global geopolitics, by concentrating on the knowledge-law-intervention interaction. In the context of earlier national-international exchanges in thinking on welfare provisions, the legal landmarks of the UK's Colonial Development and Welfare Acts 1940 and 1945 established the British Colonial Research Committee for sponsoring overseas development and research as an imperialist enterprise.¹³² It is particularly relevant to mention the work of the Colonial Social Science Research Council (1944-1962), which was dedicated to promoting investigations to inform policy on 'colonial social problems'.¹³³ A landmark report under this legal and scientific endeavour in colonial territories was Lord Hailey's *African Survey* (1938), which reinforced the importance of strategic planning for interventions in the economic and social conditions in the region.¹³⁴ From these legal and scientific milestones, a colonial research and administrative reform agenda was established, with administrative bureaucracy, fellowships and regional research institutes to provide the groundwork of a 'rational development planning and spending'.¹³⁵ Further to this, the *Moyne Report* (1945) on the British Caribbean islands was produced within a climate of anti-colonial rebellion, in response to which a Welfare Fund was allocated and the post-war national agenda of attending to the living and working conditions in colonial territories was consolidated.¹³⁶ In the USA the same growing investment in foreign aid was undertaken in the post-war context – via institutions established in the 1950s such as the Foreign Operations Administration and, later, the International Cooperation Administration – although the

¹³¹ See Kiyoshi Hirowatari, 'The 1976 IMF Crisis and Its Aftermath' in Kiyoshi Hirowatari, *Britain and European Monetary Cooperation, 1964–1979*, Palgrave Studies in the History of Finance (Palgrave Macmillan 2015) 151.

¹³² The Committees' minutes and papers can be found in the National Archive: <<http://discovery.nationalarchives.gov.uk/details/r/C5089>> access 15 May 2020.

¹³³ A very interesting history of the British enterprise of colonial social science and social anthropology is presented in: David Mills, 'British Anthropology at the End of Empire: The Rise and Fall of the Colonial Social Science Research Council, 1944-1962' (2002) 1(6) *Revue d'Histoire des Sciences Humaines* 161.

¹³⁴ See John W Cell, 'Lord Hailey and the Making of the African Survey' (1989) 88(353) *African Affairs* 481.

¹³⁵ Mills (n 133) 161.

¹³⁶ Also in Mills (n 133). The report and relating documents are held by the British Library <<https://www.bl.uk/collection-items/the-moyne-report>> accessed 14 August 2020.

North American venture is more adequately characterised as oriented towards foreign-policy interests, as an emerging superpower in the cold war competitive context. A landmark law to mention here is the 1961 Foreign Assistance Act, which established the Agency for International Development (USAID).¹³⁷ These initiatives in law, policy and research focused on overseas welfare were not isolated or localised. They are here construed as reiterations of the patterns of poverty administration visited so far, this time on an increasingly global scale.

This is how the civilising, development missions in Africa are framed here – and the discussion of advantages and disadvantages are inappropriate to this point. This sort of ‘laboratorial’ reiteration is also found, as I mentioned, within the so-called dismantling of the welfare state by a neoliberal thrust. At this time Latin America, more specifically in Chile under a military dictatorship in the 1970s, was the hotbed for another experiment: the market-oriented housing policy, i.e. the provision of cash grants tied to family savings to subsidise home-purchasing for targeted, means-tested, social segments, alongside the construction of housing units delivered by the private sector.¹³⁸ As Chilean researchers trained in the Chicago School branch of sociology became advisors of Pinochet’s regime, the ‘Chicago boys’ initiated the application of the neoliberal free-market experience (including privatisation of state companies, liberalisation of financial markets, opening to international capital, deregulation of the construction sector and land market reform, as well as urban planning reform) before it became a core feature of structural adjustments in the 1990s. The nascent financialization of social housing – based on homeownership, market competition for cheaper constructions and the subprime mortgage market to displace informal settlements – is how the global financial system penetrated the production of the built environment, via the effects of real estate speculation in the urban space. But unlike the usual narrative about the liberalisation of the housing sector, by no means was this a free-flowing market-led transformation; it was indeed a publicly funded, militarised, market-interest experiment marked by the compulsory and violent displacement of populations and transformation of the urban landscape. As a successful case-study, the Chilean experiment became an example of ‘best practice’ to solve the ‘housing problem’ – regardless of the set of new urban problems it created, such as peri-urban resettlement, mass evictions, spatial marginalisation and segregation, territorial

¹³⁷ Jamey Essex, ‘The Neoliberalization of Development: Trade Capacity Building and Security at the US Agency for International Development’ (2008) 40(2) *Antipode* 229.

¹³⁸ The Chilean experiment is delineated and analysed by Raquel Rolnik, *Urban Warfare: Housing Under the Empire of Finance* (Verso 2019) 85.

stigma, precarious residential units, increased urban violence and overall worsening of living conditions of the poor.¹³⁹ A first landmark study praising the success of the privatisation and financialization experiment was the World Bank's report *Housing: Enabling Markets to Work*,¹⁴⁰ which also launched a change in housing policy direction of requiring structural adjustments from borrowing countries, in place of the previous model of prioritising upgrades to urban infrastructure and slums.

Certainly, such 'experiments' were gradually taking place far and wide, including at the heart of the global centres of (poverty) production. Since the late 1970s, the British and North American pioneering experiences have also attempted to further the private housing market as an experiment with its own poor, passing on individual responsibility for one's own welfare and security by subsidising home purchases and private renting. In the UK, the Housing Act 1980 introduced the 'right to buy', and thus enabled the privatisation of a large share of the public housing stock, as well as drastically reducing the construction of new homes. Further along, the austere Welfare Reform Act 2012 introduced the so-called 'bedroom tax', an under-occupancy penalty for tenants in social housing.¹⁴¹ Within the USA, a welfare and housing experience of increasing privatisation and public budget cuts was also pioneered within the paradigm of homeownership, although following a policy path that has been much more racially charged and ghettoised, as seen in the previous section, including through policy practices such as the publicly funded suburbanisation of white workers and redlining by the banking system. The 1968 Fair Housing Act is a milestone in interdicting the redlining practice by prohibiting discrimination on the sale, rental and financing of housing. This was then followed by a raft of other legislation: the 1974 Housing and Community Act introduced the Housing Choice Voucher Programme, subsidising private sector rent-controlled contracts; the 1986 Tax Reform Act created the Low-Income Housing Tax Credit to subsidise affordable housing construction and rental; the 1977 Community Reinvestment Act concerned the allocation of subprime loan in a context of growing subprime mortgage products. As an effect, the private housing market was increasingly amplified by absorbing more and more of these countries' lower segments and thus strengthening the centrality of homeownership.

¹³⁹ Likewise, the process of ghettoisation as inherent to this model of market-based social housing is carefully explained in Rolnik (n 138).

¹⁴⁰ See particularly the comparison of Chile's reformed housing subsidy system and Malaysia's 'disappointing' implementation of a low-cost housing programme, presented in 'Box S-6. Using Housing to Stimulate the Economy in Chile and Malaysia' in World Bank, *Housing: Enabling Markets to Work*, (A World Bank policy paper, The World Bank 1993) 111.

¹⁴¹ These landmark legal instruments have been mapped and analysed in Rolnik (n 138) 23-50.

As financial capital has penetrated housing and the provision of other social rights worldwide, it becomes clear how social and economic policy are far from separate ventures and how the welfare state (at this point exposed to increasingly privatised and financialized solutions) can itself be viewed as an integrated socioeconomic project aimed at enhancing growth and development. To the extent that tested experiences showed that it was possible to reduce governmental activity and infrastructure by favouring private sector solutions to social problems, whilst still securing control and capacity to govern, the so-called neoliberalisation was deployed as a set of practices that would demonstrably improve welfare – measured as asset-based welfare under the paradigm of homeownership.¹⁴² That is to say, rather than a dismantling, a pure deregulation, what we find is re-regulation towards a new direction.¹⁴³ Interestingly, the effects of the new urban strategy were less noticeable in countries labelled as ‘emergent economies’, where there have traditionally been minimal welfare housing systems despite an acute housing need. The transition from a substantial public welfare housing coverage to a private housing market, on the other hand, established the urban regions where the impacts of neoliberal change were initially felt the most, and where the latest global subprime mortgage crisis was first to erupt.¹⁴⁴

As a history which is still unfolding in our time, we are quite aware of the varied dissensus around the adequate, efficient and/or desirable models of welfare and social expenditure, including those who advocate none at all. Both at a global scale and within domestic politics, we have been witnessing continuous changes, particularly with regards to public and private alternate emphases that have propelled an increasing shift from universal systems of state provision to targeted and conditioned models.¹⁴⁵ In terms of the research and policy debates, different national models have experimented with oscillations between both sides of the spectrum – public-universal and private-targeted – and a third way has also been forged to evade the polarised politics of policy-making approaches, as advocated by Anthony Giddens.¹⁴⁶ The so-called neoliberal attack on the welfare state has thus also been socially-democratically passed under the guise of a third way, with increasing policy reforms, austerity, labour reregulation and, most importantly, welfare

¹⁴² Colin Crouch, ‘Privatised Keynesianism: An Unacknowledged Policy Regime’ (2009) 11(3) *The British Journal of Politics and International Relations* 382.

¹⁴³ Garland (n 6).

¹⁴⁴ Rolnik (n 138) 1.

¹⁴⁵ Helen Fawcett, ‘The Privatisation of Welfare: The Impact of Parties on the Private/Public Mix in Pension Provision’ (1995) 18(4) *West European Politics* 150.

¹⁴⁶ Anthony Giddens, *The Third Way: A Renewal of Social Democracy* (Polity Press 1998).

transmutation to a form of 'workfare'. Ultimately, the third way was aimed at reviewing the support extended to nonworking benefit recipients who did not take up employment. An example can be found in the UK's welfare reform package of 1998, which promoted 'opportunity instead of dependence',¹⁴⁷ and the successive welfare reform which introduced a work-based welfare infrastructure.

To conclude this section, two observations about this opportunity-dependence dispute can be usefully outlined. First, that what might seem to be a recent thrust of a so-called neoliberal project, can actually be seen as an integral dispute, present from the very outset of the post-war welfare state experience – and indeed with a thread that can be traced from Victorian workhouses to contemporary workfare. For example, varying combinations of public/private responses have always been at play in the global history of the welfare state.¹⁴⁸ Throughout this history, the impulse to reform was ever present, and so was the use of research to support policy formulation. However, the extent to which statistical and empirical research findings were leading change is debatable. If, on the one hand, mid-twentieth-century social research revealed increasing complexification and diversification of methods and datasets, on the other hand, it gave rise to a markedly practice-oriented, technical-expertise mode of knowledge production which was, in many aspects, influenced by policy trends itself, and indeed turned towards indicators of efficiency, flexibility and cost-effective administration – i.e. turned to measuring means not ends. This is an important insight from meta-analyses of social research and their role in validating political projects.¹⁴⁹ Since the early experiments in this trajectory, practices

¹⁴⁷ Based on the twin pillars of work and security: work for those who can; security for those who cannot. Department of Social Security, *New Ambitions for our Country: A New Contract for Welfare* (Cm 3805, 1998); See also HL Deb 26 March 1998, vol 587, cols 1363-85. Following consultations, the Welfare Reform and Pensions Act 1999 was passed.

¹⁴⁸ Research from the Joseph Rowntree Foundation based on three nationally representative household surveys, supplied by the Data Archive, explains that 'Already in 1979/80 [beginning of the so-called Thatcherism], nearly half (48 per cent) of all welfare spending was on services with some private involvement.' And 'Shifts in the welfare mix have been slow. By 1995/96, just over half (51 per cent) of all welfare expenditure was on services with some private involvement.' In Tania Burchardt, John Hills and Carol Propper, *Private Welfare and Public Policy* (Joseph Rowntree Foundation 1999).

More recently Polina Obolenskaya and Tania Burchardt have explored the shifting boundaries of private and public welfare activity and found a continuing trend over the years of 'a gradual increase in the pure private and a decline in the public welfare activity, shifting the burden of welfare towards individually financed means'. In Polina Obolenskaya and Tania Burchardt, 'Public and Private Welfare Activity in England' (Centre for Analysis of Social Exclusion, paper 193, London School of Economics 2016).

¹⁴⁹ For example, having surveyed 52 empirical studies on welfare in the USA in the early 1970s, Schiller compared evidence used to inform reforms and revealed a 'large gap between policy assumptions and research findings. Fragile empiricism and bias were found in common assumptions, supposedly built on evidence, such as of a stable distinction between working and nonworking poor, or of welfare recipient demotivation to seek employment and of welfare extended dependency.' Bradley R Schiller, 'Empirical Studies of Welfare Dependency: A Survey' (1973) 8 *The Journal of Human Resources*, Supplement 19.

seemed more effective at raising consensus about what could be done to fix social problems, which terms of the dispute are immediately effective or not, than scientific or statistical inquiry about the nature, culture and factors of poverty – particularly in a context of increasing inequality which, at least in theory, disproves the efficacy of such a policy history. A technocratic, rather than scientific, approach to social policy has become consolidated and involves an increasingly universal, cross-national, trans-local transfer of policy models and design. Rather than following the common view of policy-making as an empirically informed decision-making process, policy transfers are based on replicable ‘best practices’ or managerial cases of success.¹⁵⁰

Finally, as an overall perceived (or propelled) need for change that was mostly framed under the need to reduce ‘welfare dependency’, this not-so-new emphasis has been largely accompanied by continuing pushes for the introduction of work requirements as a condition of eligibility for social provision and services that are often perceived as too permissive. Many studies supported this view in the USA, influencing successive welfare reforms,¹⁵¹ particularly with regard to young single-parent mothers.¹⁵² Similarly, the welfare-to-work paradigm in the UK, with initiatives such as the Work Programme and its successor Work and Health Programme, establishes mandatory work requirements that target unemployed people with eligibility conditions for benefits in order to encourage personal responsibility and to incentivise work.¹⁵³ Within the ‘workfare’ framework, the ‘malformed work ethics of the poor’ are framed as the reason why policy results are laggard or insufficient – with the effect of assigning work as the solution to poverty whilst welfare is the source of poverty. The task is to turn those living on benefits into jobseekers, to lead the poor towards a path of hard work and prosperity, and to put a stop to the ‘bad poor’ who take advantage of taxpayers’ hard work. The image of the scroungers, chavs and benefit cheats is reconstructed as ‘unskilled, unprepared, unmotivated, and work-shy “dependents” of an overly benevolent system’.¹⁵⁴ By means of legal delineations of the proper and the improper profiles and behaviour of benefit recipients, new parameters enter the craft of counting the acceptable and objectionable poor. It is law which regulates social housing and dislocation, it is law which establishes

¹⁵⁰ Jamie Peck and Nik Theodore, ‘Exporting Workfare/Importing Welfare-to-Work: exploring the politics of Third Way policy transfer’ (2001) 20 (4) *Political Geography* 427.

¹⁵¹ E.g., the Personal Responsibility and Work Opportunities Reconciliation Act 1996. See Charles Murray, *Losing Ground: American Social Policy, 1950-1980* (first published 1984, BasicBooks 2015); Lawrence M Mead, *Beyond Entitlement: The Social Obligations of Citizenship* (Free Press 1986).

¹⁵² Schiller (n 149).

¹⁵³ Peck and Theodore (n 150).

¹⁵⁴ Peck and Theodore (n 150) 433.

workfare profiling, renewing the conditions under which poverty will be seen or made visible.

2.4 International development aid

The post-war period a key moment in the development of antipoverty attitudes at a global scale, as has been mentioned in relation to the rise of foreign aid investments, be it as part of national welfarist or foreign policy agendas. Certainly, it is another misleading compartmentalisation to suggest that the nationally organised welfare state is somehow dissociated or perhaps even succeeded by a more recent trend towards globalisation. In fact, as I have indicated, the timeframes of national welfare systems and of international development overlap to an extent that it could be found that the national-western-northern welfare states and the global-southern aid schemes were formed as complementary and mutually supportive projects. On the one hand, early welfare experiences accommodated imperialist missions which are at the root of what came to be the developmentalist project, sustaining colonialism as 'a moral project'.¹⁵⁵ On the other hand, as I will delineate in what follows, there are clear resonances of the same neoliberal-financialization thrust impacting both welfare states and global development aid at present – or perhaps, it could be argued, the long-standing experimentations of globalisation and market integration in the 'developing economies' also worked to retrench national welfare states in 'advanced economies'.¹⁵⁶

The connections between the welfare state and international development are not as incidental as it might seem. In the post-war context, the same Keynesian protectionism is at the source of both and John Maynard Keynes himself was a leading figure in the global transformations of the time as one of the intellectual founders of the International Monetary Fund and the World Bank, institutions that today play a dominant role in the geopolitics of poverty in the 'developing world' – as the euphemism now stands. In 1944, towards the end of World War II, the United Nations Monetary and Financial 'Bretton Woods' Conference was convened in the USA to build international financial cooperation and monetary control by allied countries. Initially aimed at post-war European

¹⁵⁵ A legal milestone to this end was the abovementioned series of Colonial Development and Welfare Acts which supported scientific and missionary interventions in colonial territories at large. Prior to the 1940s much of British overseas social research had been sponsored by private philanthropic foundations, according to Mills (n 133).

¹⁵⁶ Alexander Hicks and Christopher Zorn, 'Economic Globalisation, the Macro Economy, and Reversals of Welfare: Expansion in Affluent Democracies, 1978–94' (2005) 59 *International Organization* 631.

reconstruction, the story goes, the then International Bank for Reconstruction and Development soon shifted its lending practices to foreign development aid – i.e. to funding infrastructure projects in poorer countries in Latin America, Africa and Asia. Having expanded into the World Bank Group, loans to low-income countries are now predominantly aimed at policy reforms. In the 1970s ‘the Bank’ started to shift its attention to poverty eradication as a priority, reorienting development policies ‘to redefine the objectives and measurement of development in more operational terms [...moving beyond] the rhetorical statements of social objectives’.¹⁵⁷

In this context, a renewed conceptualisation of poverty was consolidated as a global threat to growth and the world’s prosperity, later to be further transformed into a global threat to ‘human security’ in general.¹⁵⁸ In the face of such threat, multilateral bodies ascribed themselves the civilising mission of modernising underdeveloped countries. From the international economic growth point of view, poverty becomes an impairment to growth and global prosperity. That is to say, while poverty had previously been seen as a natural occurrence – even necessary for economic growth – which ultimately legitimised imperialist investments in extracting unexplored or misused resources, it was now to be understood as a problem for growth.¹⁵⁹ It is also in the context of this paradigmatic shift that emerges the industrious efforts to closely monitor such a threat, to securitise it with risk assessments, and to tackle it towards a mathematically viable eradication. To do that, first, the World Bank takes up the task of collecting and expanding statistics on growth and income distribution in the developing world. In 1978, the World Bank initiated its famous report series, the *World Development Report*,¹⁶⁰ of which three are often highlighted for presenting poverty and its timely challenges as the central theme: the 1980 report on ‘Poverty and Human Development’; the 1990 report on ‘Poverty’, promising a redirection after a ‘lost decade’; and the 2000/2001 report ‘Attacking Poverty’, dedicated to dimensions of poverty and strategies of empowerment, opportunity and security. It was

¹⁵⁷ As stated in the infamous speech by the World Bank President Robert McNamara, at the 1973 Annual General Meeting in Nairobi, Kenya, expressing the concern with global poverty as hindering economic growth (apart from also not benefiting from it due to maldistribution). As proposals to proceed, McNamara’s list included acceleration of land and tenancy Reform and better access to credit within developing countries. See in: Robert S McNamara, ‘Address to the Board of Governors by Robert S. McNamara (English)’ (World Bank Group 1973) 11.

¹⁵⁸ Although long treated as a actual problem of security, in the post-9/11 context poverty was admittedly raised to the status of global security threat, officially unifying the war against the poor and the war on terror. See Akhil Gupta, ‘Is Poverty a Global Security Threat?’ in Ananya Roy and Emma Shaw Crane (eds), *Territories of Poverty: Rethinking North and South* (University of Georgia Press 2015).

¹⁵⁹ Ravallion (n 4) 116.

¹⁶⁰ World Bank, ‘World Development Reports’ <<https://www.worldbank.org/en/publication/wdr/wdr-archive>> accessed 29 June 2020.

also in the 1980s that the World Bank initiated its *Living Standards Measurement Study*, a programme aimed at improving the quality of methodologies and data availability by strengthening household survey systems in 'client countries' to supplement income-based poverty measures.¹⁶¹ Another document to mention in the early strategies is the 1993 *Poverty Reduction Handbook* in which the World Bank laid out the basic principles of poverty analysis and measurement, and of policy and regulatory framework, expenditure, country assessment and assistance strategies.¹⁶²

Along with the World Bank, many other multi-sector institutions have joined in the enterprise of understanding and tackling poverty. An industry of poverty reduction has formed with the joint forces of heads of states, financial institutions and corporate philanthropic foundations – to name a few powerful institutions: the Organisation for Economic Co-operation and Development, the United Nations Development Programme, the Food and Agriculture Organization, the World Health Organization, the European Development Fund; Ford Foundation, Rockefeller Foundation, the Gates Foundation... the list of benefactors goes on and on. The practices of this industry, often seen as unrelated and at times conflicting with each other, include research, case studies, diagnosis, tried-and-tested policy dissemination, financial aid, credit operations, structural adjustments, international cooperation, predatory lending, policy assessment, advocacy of austerity measures, etc.

In the context of instituting an international framework of monitoring and reducing global poverty, development is consecrated as 'a proxy for the question of material well-being' and for improvements of living standards.¹⁶³ Mirroring conceptions of poverty that were also present in the previous clusters, this view attributes to the developing economies and states the responsibility for poverty, in terms of political culture, corruption, unstable democracy, weak institutions, poor infrastructure, and so forth. Underdevelopment is framed in terms such as 'poor governance' and 'State failure', where institutions failed to follow the modernising path.¹⁶⁴ As a result, interventions of aid are aimed at reforming

¹⁶¹ Ravallion (n 4).

¹⁶² World Bank, *Poverty Reduction Handbook* (World Bank Group 1993).

¹⁶³ Sundhya Pahuja explains that 'development' is but a mode of knowledge premised on explanations of the causes of poverty in local and contemporary contexts, rather than global and historical causes; one which centralises economic growth as a promise of improvements. Sundhya Pahuja, 'The Poverty of Development and the Development of Poverty in International Law' in James Crawford and Sarah Nouwen (eds), *Select Proceedings of the European Society of International Law*, vol 3 (Hart Publishing 2012).

¹⁶⁴ On how the notion of 'state failure' has historically justified transnational state-building interventions, see: Jonathan Di John, 'Conceptualising the Causes and Consequences of Failed States: A Critical Review of the Literature' (2008) Crisis States Research Centre Working Paper 25: Development as State-Making.

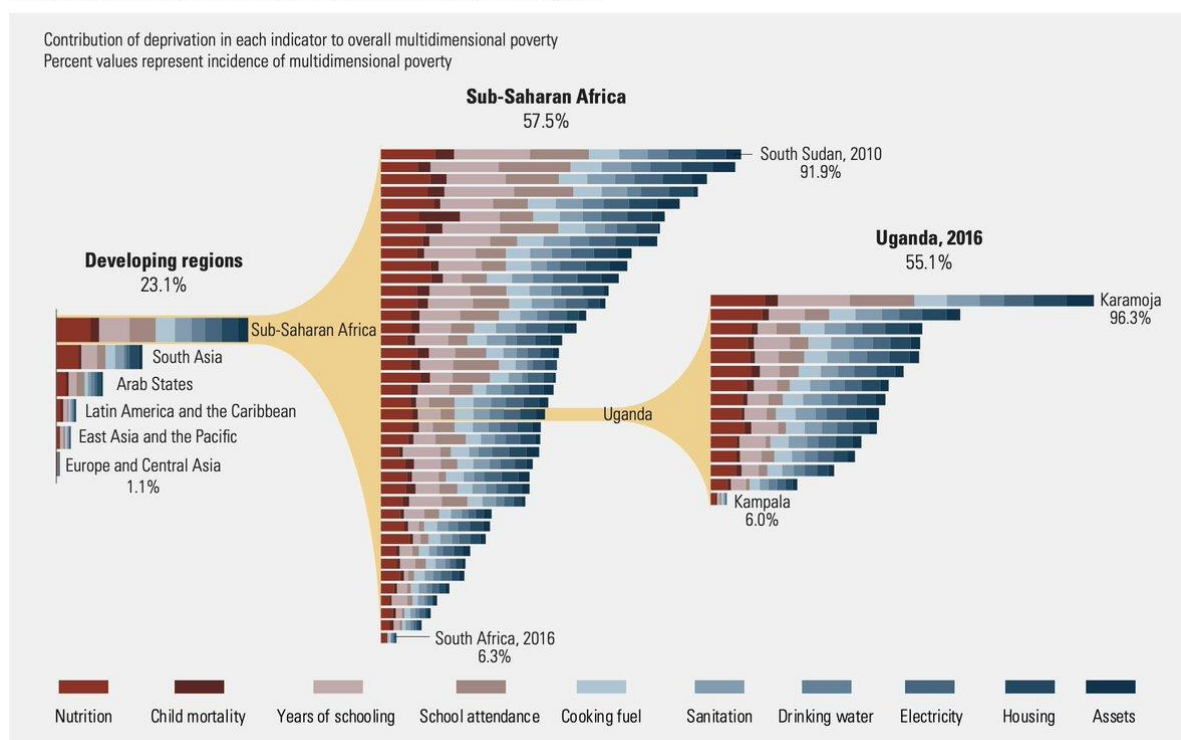
underdevelopment with state-building interventions to enable their participation in the international market place. This includes measures to strengthen the rule of law, purportedly focusing on the application of norms and procedures and the advancement of democracy. Under the guise of state-building and good governance, the shift of attention to poverty as a global priority has been instrumentally moved by international law, although literature overwhelmingly interrogates the challenges of implementation and enforceability.¹⁶⁵ Assemblies, conventions and negotiations have led the international community to come to an agreement on this new main target. Nations from both the developed and the developing worlds negotiated this, certainly with different motivations and interests, and as a result the current 'common goals' were formed. While post-development literature focuses on the imperialist nature of such negotiation, which I do not reject whatsoever, the scope of this thesis prompts me to reflect on the conceptual and aesthetic products of such conjunctures resulting from these agonistic interactions. This is what I do more directly in chapters 4 and 5, where I will be mostly referring to this multinational system of aid and funding – namely the World Bank's business of tackling global poverty within a broader industry – and, for this reason, I shall not grant too much emphasis to this topic here. What is important to lay out about global aid, in this chapter, is that in establishing the ultimate forms, standards and procedures by which an industry of global poverty reduction takes shape, such international practices have established international legal parameters and standards of practice to enable knowledge and intervention initiatives worldwide.

Poverty studies in the twentieth century have advanced and proliferated at a fast pace within an international surge to identify and challenge global poverty, particularly from the 1990s. Moving from local surveys to global poverty calculations, research has developed into increasingly more abstract and mathematical formulations, creating more complex, detailed and aggregated data. Poverty turned into a common identifier, a referent unifying all of the dispossessed in the world, as the same widespread, calculable phenomenon. Translated into indicators of aggregated data, poverty and its correlate concepts became the determining parameters by which countries are ranked into degrees of priority or classifications of special concern. As a result, poverty assumed increasingly quantitative, economist and monetised forms in order to provide international standards of measurement and comparison. And so did the strategic responses to the 'problem of

¹⁶⁵ Lucy Williams, 'Towards an Emerging International Poverty Law' in Lucy Williams (ed), *International Poverty Law: An Emerging Discourse* (Zed Books 2006).

poverty’. While earlier transformations moved from a scientific episteme to a kind of programmatic pragmatism in the post-war context – as seen in national welfare trends in data – towards the end of the twentieth century economic theory has further developed to produce massive calculative scholarships, influenced by computer-based data processing, risk-calculus, cybernetics and machine learning.¹⁶⁶ The future of poverty research seems likely to be increasingly innovative, digital and imagistic.¹⁶⁷ A data revolution has been proclaimed,¹⁶⁸ opening new fields of economic analysis with large-scale, complex and often real-time administrative data or private sector data referring to virtual activities, communications, financial interactions and many other associations that allow predictive models of analysis.

Going beyond averages shows great subnational disparities in Uganda



Source: Alkire, Kanagaratnam and Suppa (2019) based on Human Development Report Office and Oxford Poverty and Human Development Initiative calculations.

Figure 10: Data visualisation of the 'Global Multidimensional Poverty Index' (2019).¹⁶⁹

¹⁶⁶ See also: Philip Mirowski, *Machine Dreams: Economics becomes a Cyborg Science* (Cambridge University Press 2002).

¹⁶⁷ As in the case of new methods using satellite imagery for detecting and mapping informal settlements, combining knowledge and machine learning techniques, in: Patrick Helber et al, 'Mapping Informal Settlements in Developing Countries with Multi-Resolution, Multi-Spectral Data' [2018] arXiv, Cornell University.

¹⁶⁸ Liran Einav and Jonathan Levin, 'Economics in the Age of Big Data' (2014) 346(6210) *Science* 715.

¹⁶⁹ Figure 10 attribution: Sabina Alkire, Usha Kanagaratnam and Nicolai Suppa (2019) based on Human Development Report Office and Oxford Poverty and Human Development Initiative calculations. Image extracted from the United Nations Development Programme's and Oxford Poverty and Human Development Initiative's report: 'Global Multidimensional Poverty Index 2019: Illuminating Inequalities', p. 5. <http://hdr.undp.org/sites/default/files/mpi_2019_publication.pdf> accessed 29 June 2020. Copyright under the Creative Commons as stated in the HDRO website <<http://hdr.undp.org/en/content/copyright-and-terms-use>>

Several indexes have been created to measure poverty according to different perspectives and emphases on what constitutes poverty in attempts to establish comparisons and gradings between nations and to orient strategic action. The most widely used measure within the developmental framework, which allows for stable international comparative analysis and serves as base for many other multidimensional indicators commonly used is the Gross Domestic Product (GDP). The GDP was first forged by Nobel prize winner Simon Kuznets in 1930s USA and integrated into an international standard system of accounts in 1968, then reformulated successively.¹⁷⁰ It stands for the national income of a country. As a measure of 'economic growth', of the periodic flow of a country's commodity production, i.e. final goods and services, it provides a comparable measure of international economic progress to which other aggregate indexes can be combined.¹⁷¹ It can be broken down into population per capita as means of measuring standards of living, or aggregated with 'Purchasing power parity' exchange rates in order to provide comparable indexes adjusted to different countries' currencies and prices of goods. Although, or perhaps because, it does not enable an analysis of income inequality within countries, the GDP is the primary measure that organises the geopolitics of global poverty, by which other indicators are usually derived, such as the gross national income (GNI). Such indicators are applied to arrange countries into ranks and groups – most notably low- and middle-income countries are classified and listed as eligible to receive official development assistance in the Development Assistance Committee's List, which also encompasses the classification of the Least Developed Countries defined by the United Nations. As such, the GDP provides a way of ordering the world, a technical measurement that confirms the superiority of advanced economies in an analogous way to how scientific racism once validated racial hierarchy.¹⁷²

There are ever so many Nobel prizes behind indicators, examples of which include the World Development Indicators, the Human Development Index, the Gini coefficient of income inequality, the Human Poverty Index, the Gender-related Development Index and the Global Multidimensional Poverty Index. These indicators are periodically calculated and, most importantly, are operative of geopolitical flows and interactions. To the extent

¹⁷⁰ The current normative landmark is the 2008 System of National Accounts, developed by the International Monetary Fund, Organisation for Economic Co-operation and Development, United Nations and World Bank.

¹⁷¹ Ravallion (n 4).

¹⁷² Sundhya Pahuja, 'Global Poverty and the Politics of Good Intentions' in Ruth Buchanan and Peer Zumbansen (eds), *Law in Transition: Human Rights, Development and Transitional Justice* (Hart 2014).

that it is not practical or appropriate to provide an overview of such indicators here without losing track of the scope of the chapter, I will limit myself to indicate that through experts, advisors, researchers and policy designers,¹⁷³ which provide most exemplary articulations of the knowledge-law-intervention compound, the World Bank has assumed the hegemony of global poverty monitoring and the management of funds for the international financing of poverty alleviation and/or development projects. It is also the World Bank's guidelines that guide public policy designs around the world. Despite the overwhelming primacy of the World Bank's repository, there are several studies that point to methodological, ethical and political problems in World Bank poverty data work, as well as the effects of its work in sacralising a global understanding of the problem of poverty as something to be fixed via templates of what worked elsewhere – an attitude from which many collateral problems emerge, renewing the very nature of the original problem being tackled.¹⁷⁴

Within the frameworks of the World Bank itself, the notion of poverty, its causes, and the methods for its reduction have also undergone significant transformations in emphasis overtime. The broad periodisation typically presented is that up to the 1970s, the emphasis was placed on shifting national-developmental ventures by supporting infrastructure (telecommunications, energy and urban reform) and state-building advancements (judicial reform, labour and trade reforms, land market reforms and formalisation of property rights), strengthening the rule of law as a method to reduce poverty in its own right.¹⁷⁵ In the late 1980s globalisation gained momentum and the well-known 1989 Washington Consensus established the neoliberal model to be implemented in developing countries via Structural Adjustment loans (or Development Policy Loans). This was done through investments conditional on national incorporation of values of governance, free markets and transparency in state structures, with priority being placed on private sector takeover of public expenditures, against bureaucratic, corrupt and paternalist third world governments. Just as the nation-based welfare states faced neoliberal thrusts and, more recently, the financialization of social provisions, concurrently – or perhaps I should say experimentally, in the global laboratory – the 'developing world'

¹⁷³ Influential experts to mention include Jeffrey Sachs, Martin Ravallion, Joseph E Stiglitz, and, most famously, Anthony Atkinson and Amartya Sen.

¹⁷⁴ For example, see Paul Cammack, 'What the World Bank Means by Poverty Reduction, and Why it Matters' (2004) 9(2) *New Political Economy* 189.

¹⁷⁵ Alvaro Santos, 'The World Bank's Uses of the "Rule of Law" Promise in Economic Development' in David M Trubek and Alvaro Santos (eds), *The New Law and Economic Development: A Critical Appraisal* (Cambridge University Press 2006) 275.

witnessed drastic transformations to the dynamics of international conditioned aid. The experience in the developing world soon rebounded on the poor in the developed economies, with an increasing trend towards forming public-private partnerships. The 1990s unfolded as a transitional decade in which the damaging effects of globalisation began to be perceived and new themes emerged to 'de-economise' poverty, presenting it as an increasingly multidimensional phenomenon. This framework also enables the formulation of affirmative or compensatory policies of income distribution to help individuals escape the vicious cycles of poverty.

At the turn of the millennium, the change of emphasis was reportedly consolidated. In 1997, the United Nations document *Renewing the United Nations: A Programme for Reform*¹⁷⁶ urged for human rights to be 'mainstreamed' into all its programmes, policies and activities. A human rights-based approach to development was formulated as a conceptual framework based on international standards and the language of rights and obligations within international law.¹⁷⁷ While there is no 'right to be free from poverty' with corresponding duties on states,¹⁷⁸ peoples of the world hold a human right to development.¹⁷⁹ On the other hand, whilst scholars problematise the lack of accountability of the international legal order, rendering it 'toothless',¹⁸⁰ this framework seems to sustain a view of a sort of 'natural transition from capabilities to rights'.¹⁸¹ The culminating innovation at the turn of the century, as is widely known, was the Millennium Summit of the General Assembly in 2000 which established the Millennium Development Goals,¹⁸² which have since been further renewed as the 2030 Sustainable Development Goals.¹⁸³

¹⁷⁶ Other landmarks on this topic are the United Nations Development Programme's documents: 'Poverty Reduction and Human Rights Practice Note' (2003); 'Human Development Report' (1997), and 'Overcoming Human Poverty' (1998 and 2000).

¹⁷⁷ A language much criticised for not deploying the normative imperatives of its status as binding law. Navi Pillay, 'The Tunis Imperative: Human Rights in Development Cooperation in the Wake of the Arab Spring', (United Nations Chief Executives Board, United Nations 2011).

¹⁷⁸ Krista Nadakavukaren Schefer, 'Poverty, Obligation, and the International Economic Legal System: What are our Duties to the Global Poor?' in Krista Nadakavukaren Schefer (ed), *Poverty and the International Economic Legal System: Duties to the World's Poor* (Cambridge University Press 2013) 3.

¹⁷⁹ Relevant landmarks are the 1986 UN Declaration on the Right to Development and the Declaration of the 1993 UN World Conference on Human Rights, which states that the right to development is an inalienable human right and an integral part of fundamental human freedoms.

¹⁸⁰ Pahuja (n 172).

¹⁸¹ Office of the United Nations High Commissioner for Human Rights, 'Human Rights and Poverty Reduction: A Conceptual Framework' (United Nations 2004) 6.

¹⁸² The Millennium Declaration (Resolution 55/2) of the United Nations 2000 Millennium Summit which adopted the Millennium Development Goals, followed by the 2005 World Summit and the 2010 MDG review. Available at <<https://www.un.org/millenniumgoals/>> accessed 17 August 2020.

¹⁸³ United Nations Resolution 70/1. See the Sustainable Development Goals and the 2030 Agenda for Sustainable Development, <<https://www.un.org/sustainabledevelopment/development-agenda/>> accessed 17 August 2020.

Both agendas consolidated the multidimensional understanding of poverty and fixed goal number one as to reduce poverty, i.e. initially to halve the proportion of people living on less than \$1 a day and of people who suffer from hunger by 2015, now to ‘eradicate extreme poverty for all people everywhere’, that is those now living on less than \$1.25 a day’ by 2030.¹⁸⁴

The concept of multidimensional poverty is anchored in Amartya Sen’s ‘capability approach’, which defines poverty as the absence or inadequate fulfilment of the basic freedom or opportunity to pursue well-being (matters such as health, access to food and water, education, adequate housing, healthcare, sanitation, decent work and social security).¹⁸⁵ The human rights-based approach prescribes that such basic capabilities are internationally recognised rights attainable by the same means by which people can ‘claim and access their civil, cultural, economic, political and social rights’.¹⁸⁶ Despite the efforts to view poverty – or make poverty visible – as a multidimensional matter, the reduction of which is achievable by means of increased access to rights, studies also dispute that the World Bank’s practices of knowledge-law-intervention truly adhere to these frameworks.¹⁸⁷ Others also emphasise that the market-oriented, economist, income-based view of poverty as a development challenge has never been unsettled but indeed refashioned into ‘pro-poor’ terminology: pro-poor growth, pro-poor markets, inclusive growth, financial inclusion, pro-poor private-sector led development, conditional cash transfers, microfinance, to name a few.¹⁸⁸ It is more accurately defined as a growth ‘plus’ approach, in which economic growth is still the core idea of development even though it might aggregate other traits or factors.¹⁸⁹ The new fashionable terminology, critics often indicate, followed from the backlash of the structural adjustment years and scapegoated failed monetary policies recorded at the end of the 1990s.¹⁹⁰ It is in these terms that the aforementioned trend of poverty financialization flourished, as will be discussed in chapter

¹⁸⁴ A rich account of the conflictive history between development and human rights agendas which ended in their mutual alignment in the millennial turn can be found in Philip Alston, ‘Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the lens of the Millennium Development Goals’ (2005) 27(2) Human Rights Quarterly 755.

¹⁸⁵ Amartya Sen, *Development as Freedom* (Alfred A Knopf 1999).

¹⁸⁶ Office of the United Nations High Commissioner for Human Rights, ‘Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies’ (United Nations 2006) iii.

¹⁸⁷ An example of a case study that demonstrates the urban upgrading programmes in contrast to the freedom or capabilities approach to poverty is: Alexandre Apsan Frediani, ‘Amartya Sen, the World Bank, and the Redress of Urban Poverty: A Brazilian Case Study’ (2007) 8(1) Journal of Human Development 133.

¹⁸⁸ Roy (n 100); Philip Mader, *The Political Economy of Microfinance: Financializing Poverty* (Palgrave Macmillan 2015).

¹⁸⁹ Pahuja (n 172) 37.

¹⁹⁰ Roy (n 100).

4.¹⁹¹ If today the private equity funds, corporate foundations, insurance and other asset management companies of the financial market dominate global welfare provisions – with private healthcare systems, pension funds, educational credit, university endowments, investment funds for public-private partnerships, urban policy, and many other everyday lending operations – an interesting transformation to be noted here is how the ‘state-failure’ theory increasingly morphed into an idea of ‘market failure’: it is the private sector which requires support and reform in order to excel in an inclusive manner.¹⁹² On the other hand, it is also by means of extending the reach of a pro-poor, inclusive market that poverty will be overcome. In other words, financial capital expansion, the breaking into new frontiers, new territories and new clientele, becomes a mission, a joint effort of a humanitarian international community.

As a final point in this section, it is important to highlight the programmes of land reform sponsored by the world bank and other cooperation agencies. An influential publication in this regard is Hernando de Soto’s 2000 book *The Mystery of Capital*, in which he correlates poverty in low- and middle-income countries to underdeveloped regimes of property, without registered property titles, rendering assets owned by poor people ‘dead capital’, i.e. unused as collateral for loans.¹⁹³ De Soto’s proposal was to promote land titling in order to provide the poor with the capabilities to access capital and, thus, escape poverty – as a side effect, almost by chance, the financial market could finally penetrate long-aspired territories of poverty and informal land use within the slums of the ‘Global South’ (new clients and new assets). I mentioned in chapter 1 that land titling was indeed a promoted agenda for international prosperity and modernisation. Land reform to modernise registration has been present in the World Bank’s repertoire for a long time – including in McNamara’s above cited speech in regard to small farmers’ access to registered titles. But drawing informal tenancy arrangements into the frameworks of rights and ownership, despite the attractive term ‘land reform’ – after all, are not social movements historically campaigning for land reform and property redistribution? – can be misleading and indeed problematic.

¹⁹¹ A final indication to mention in this direction is the World Bank’s 2015 ‘Maximizing Finance for Development’ strategy, a sort of crowd-sourced finance innovation with reduced risk to the private sector. In other words, a new role of mediator, or facilitator, is (self)ascribed to the World Bank, gathering private investors to aid developing countries.

¹⁹² Roy (n 100).

¹⁹³ This analysis of the book’s influence and impact in global policy reforms is from Rolnik (n 138) 155-169.

Besides, by looking at this influential 'agenda' of privatisation within the larger history of poverty administration that I have retraced in this chapter, it can be realised that there is not much novelty to it: give the poor the resources to escape the trap of poverty they got themselves into. Again, it reveals an assumption that the market will flow harmoniously. That there is a lack of evidence supporting this belief, and indeed there are studies demonstrating that titles only offered a limited contribution to poor people's access to credit, is beyond the point that I am making here. My point is rather that by means of legal reforms and land registration investments, a specific profile of the global poor is being selected (or sampled) for intervention. They are then being assimilated into the circuits of finance and formal market economy as the proper kind of poor populations that have a chance to escape poverty – provided they demonstrate sufficient capacity and diligence to do so. To these newly formalised poor people, human rights might be of service as framework and toolbox to succeed.

Again, I must restate an initial reservation I presented in this thesis – that is that I do not wish to neglect the material basis of poverty by way of analysing its aesthetic composition and continual reformulation. It is evident that tenure security and adequate housing must be taken seriously and that indeed, in many cases in which reforms are presented, they are welcomed by local communities and are often responses to demands from social movements. The critique that I am developing here is not meant to disregard the perversity of tenure insecurity or to dismiss that land and housing formalisation, with its accompanying property rights, is an important claim and a necessary step towards social justice within the capitalistic frame which governs our mode of existence in the world as we know it today. On the other hand, it is relevant to reflect on the global 'mechanism for increasing the exposure of the poorest to [continual] processes of dispossession'.¹⁹⁴ By intensifying or democratising access to land titles, another effect is taking place (regardless of the plane of intentions): the hegemony of private property is re-confirmed as the only possible form of tenure, further effacing any other possible modes of habitation and land occupation.

That being said, here is my most central point, that which I have reiterated after tracing the evolution of each of the clusters in this chapter: it is law – i.e. broadly construed legal practices – that creates categories in the first place which will then be used to inform empirical experiments of social research that will attempt to demonstrate the efficacy of

¹⁹⁴ Rolnik (n 138) 168.

such a model of intervention. By means of legal practices, the poor as development client or aid recipient are transformed into the poor as a microentrepreneur, an asset holder and a borrower. It is also in legal terms that informality of land occupation and formality of ownership is demarcated. By shaping the contours of what designates the poor and what is left out of the frame in different epochs of places, law establishes the conditions and terms around which knowledge practices and intervention practices might be structured. Moreover, it is also through diverse and perhaps seemingly disconnected legal practices that the territorialisations of poverty are established, for example, in the adoption of comparable indexes of economic growth that confirm the geopolitics of global poverty and that happen to coincide with the Third World/Developing World/Global South. The national and local territorialities of poverty are also shaped by such legal practices, as is the centuries old urban crisis with regard to slums, which endure clearances, demolitions, ghettoization, militarisation, upgradings, urban renewal, displacements to urban peripheries... will they endure financial assimilation? Or will slums linger and accumulate layers of violence, impermanence, insecurity, displacements, imminent risk of eviction, policing and military occupations, capital incorporation, gentrification and touristification?

International law has long been exposed for its clear and often unapologetic colonial-imperialist legacy by scholarly accounts. Despite its proclaimed mission to secure international stability, peace and humanitarian values guided by the frameworks of development and human rights – self-interestedly or benevolently, it does not matter and actually both motivations apply at once – critical scholars sustain that international law is much more of a part of the problem which exacerbates rather than reduces poverty.¹⁹⁵ However, instead of engaging with the debates on efficacy or need for reforms, I set out to inquire into the legal-aesthetic interventionism of these centres of poverty production, i.e. centres of global poverty knowledge and intervention. This is the analysis that I will undertake in the next chapters of this thesis. But first, let me establish a preliminary analysis of what these four clustered trends in poverty administration might tell us, when analysed together, about the role played by law and legal practices in general.

2.5 Form and content: framing ‘the poor’ as legal profiles

If drawing lines and raising fences inscribe the divisions which create the propertied and the propertyless, as discussed in chapter 1, codified law appears to enable the

¹⁹⁵ Pahuja (n 172).

consolidation of such positionalities as stable categories independent from the traces that created them in the first place.¹⁹⁶ In this final section, I situate the various reorientations of antipoverty legal trends outlined above as traits of a wider mechanism of poverty production. I delve into the discussion of how knowledge practices, legal practices and policy practices work together in prescribing and instituting poverty as an ontological problem to be further detected, refined and fixed. As a result, poverty ceases to be a mere unifying concept and becomes an actually existing thing in the world, an entity that can be perceived on material grounds, assimilating entire populations and territories under the designation of “the poor”.

As legal codifications of poverty accompany the shifting conceptualisations of poverty in time and space, poverty is here construed as a form, the content of which is the populations and territories that form incorporates and modulates, which is to say, bodies and soil are the material components that get modulated into the form of poverty. This point draws on a Georg Simmel’s ‘The Poor’, which explores the meaning of modern assistance to the poor in a kind of philosophy of rights and obligations.¹⁹⁷ As the underlying commonality, Simmel stresses that in any given society, who is ‘poor’ and who isn’t depends less on any specific deprivation than on whether someone is (or should be) the subject of dedicated institutions. The history narrated in this chapter delineates how ‘the poor’, as a character, or indeed as a legal profile, have been substantially transformed while the form ‘poverty’ has seemed to be a stable phenomenon throughout modern history. By focusing on the aesthetic features of the historical definitions of poverty and the poor, I am looking at a qualitative function of law which prescribes attributes to the poor. These are not empirical characteristics, but rather normative qualifications and projected imageries, as I shall explain.

In the models above it becomes clear how poverty definition – in fact, poverty creation as an idea and poverty production as a social reality – articulates multiple directions of influences between practices of knowledge, law and intervention. As a result of these exchanges, poverty comes to be in the world as we know it and we find poverty data, antipoverty legislation and social policy as separate instances that inform and support one another while being black-boxed as autonomous systems. However, what the narrated history above suggests is that the procedures of poverty definition are inseparable from

¹⁹⁶ What Denise Ferreira da Silva calls an onto-epistemological transformation. Denise Ferreira da Silva, ‘No-Bodies: Law, Raciality and Violence’ (2014) 9(1) *Meritum* 119.

¹⁹⁷ Georg Simmel, ‘The Poor’, Claire Jacobson (tr) (1965) 13(2) *Social Problems* 118.

the procedures of its remediation. It all starts with a single, rudimentary action of inscribing poverty – to trace its contours, to log its inner attributes and to test its cohesiveness and/or expansiveness. ‘Poverty data’ is ‘inscribed poverty’. As with any other data, poverty needs to be inscribed in order to be quantified and manipulated. In that regard, inscription, the notation of data, surpasses empiricist knowledge practices and indeed entails creative practices of making an object visible, tractable, manageable – conditioned by a previous legal ascription. Notice this is not to undermine poverty data as a subjective, value-judgement kind of impression which suggests that accuracy or objectivity of empirical observation has not been achieved. I claim that data normatively organises the world, as will be seen in chapter 3. The act of inscription, I argue, derives from the innermost gesture that gives rise to any such practices and outcomes, that is, the gesture of the technical-analytical gaze that establishes a basic divide. The gaze observes, surveys, and visualises poverty in order to act on it as an independent problem to be fixed. The gaze consolidates a perspectivist encounter between the subject who sees and the object that is seen. As such, the gaze fabricates those perspectives as existing entities, the nonpoor and the poor.

As will become clearer in the following chapter, I situate law as mediating the gaze of the nonpoor towards the poor (articulated through a hostility towards the indolent poor, fear of the dangerous poor, fascination with the exotic poor, hatred towards the ungrateful poor). In other words, I foreground the ways in which law outlines the phenomena that science will apprehend and politics will intervene in. Although I am centralising law in this thesis, I do not wish to suggest that this is a linear process of chronological determinations – that first law inscribes, then science quantifies and politics transforms. Instead, these flows of exchange are more adequately construed as multidirectional and in the next chapter I will explicate that, in the circuitous exchanges, quantification also leads to qualification, meaning that scientific formulations and calculations of poverty also determine the conditions of poverty’s verification and indeed manifestation in the world. In chapters 4 and 5, I will delve into the issue of how quantified and qualified poverty materially affect populations and territories, by creating the conditions under which bodies and soil are configured or assimilated by intervention practices.

Law provides the crucial means through which an ontologising move occurs, conferring to poverty an objective status of ‘social reality’ – that is, a hybrid blend of natural adversity and a calamitous condition intrinsic to society. This social reality has been historically

constructed as a problematic – a ‘social problem’ – one which requires permanent remedies and which propels the modern cognitive and pragmatic ambitions to know it and fix it. It has been seen in the previous sections how antipoverty legislation can do that, on the one hand, by taking measures to endorse the productivity of the poor – by acting upon the workers to be employed, the homeless to be housed, the destitute to be banked, i.e. the ‘informals’ to be formalised as poor. On the other hand, legislation can also foster this formation by acting upon threats to be removed – vagrants to be contained, criminals to be penalised, fraudsters or scroungers to be managed, debtors to be foreclosed. Under the frame of analysis that I just laid out, by attempting to fix the problem, law co-produces the problem of poverty, creating stratification, stigmatisation, classification, informalisation, and indeed unlawfulness. It may seem that such practices are detecting, computing and classifying existing inequalities, social hierarchies and gaps between strata, classes or even nations. But in fact, I am suggesting, the gesture of visualising and inscribing is also a gesture of material creation in that it evokes the form and also modulates the content of poverty.

It is a commonplace conception that codified laws are formal responses to scientific discoveries about poverty, in a process of informed decision making, which then provide the guidelines for political interventions upon poor populations and territories. But in fact, as I have demonstrated in this chapter, law can be seen to turn poverty into a visible occurrence in the first place, for science and politics to then act on it as a problem to be fixed. Hence, law figures as the process through which poverty is presented to the eye as a problem that needs to be fixed. Science and politics will take care of scrutinising the problem and exploring solutions by means of other practices that further co-form or co-produce legal techniques – to that effect, I have argued, these are also legal practices from a legal refinement standpoint.

I will delve into this broad conceptualisation of ‘law’ in chapters 3 and 4. In this chapter, I have simply treated legal codifications (antipoverty legislation) as parts of what law is. In fact, codifications are to be construed as the result of legal operations, their contingent consolidation in time and space. In other words, legal codifications are read as instant snapshots of law’s advancements, i.e. crystallised moments within a broader unfolding of ‘law’ as a technology. But law itself, as a technology, is the process of its own making, which explains why it is moved by continual practices of knowledge and intervention. Law is also a catalyst, an enabler of the unfolding of a series of other practices. Here is a sketch

of how this way of conceptualising law and of framing it as a means of poverty visualisation unfold in the four modes of 'dealing with poverty' examined above:

- 1) The practices that enabled the formulation and the functioning of the poor laws, which included the technical-scientific studies to press for institutional and legal reforms as well as the daily operations which implemented the poor laws – whether complying with its determinations of workhouses, vagrant removals, or even introducing new practices of poor relief which gradually instigated further changes to policy (such as continuing to offer outdoor relief despite the legal determinations of 'less eligibility') – these practices are what collectively produce poverty as a problem of lack, of genius, a pathology to be cured by rehabilitating individuals and putting them to work. In this light, law enacts the conditions of its own requirements to operate.
- 2) The practices of law enforcement, guided by knowledge of the associations between crime-poverty-race, end up producing more and more data which confirm these associations amongst the poor, the criminalised and the racialised. The selectiveness of using statistics of crime to deduce conclusions about crime and criminals in society work, paradoxically, to re-target the very subjects that were criminalised in the first place, and to invisibilise criminality that was left off the record, as unreported crimes. This is how data and law interact to establish the foundations of (and feed the continued expansion of) a war on poverty which is gradually transfigured into a war against the poor. Poor populations and territories are increasingly policed, increasingly studied and increasingly being objects of policy as poverty becomes visualised as a problem of crime (violence, drugs, theft, begging, benefit fraud, ghettos).
- 3) The practices of managing public-private social protections and citizenship rights, particularly in the disputed context of its entrenchment by consensus-building global integration, breed increasingly diversified modes of data collection and usage. Manifesting a shift in social measurements, driven by strategic policy practice to identify and compare efficient pathways to social change, the welfare cluster presents a nascent rights-based logic of legal techniques used to deal with poverty as a 'right to support'. In the process of increasing privatisation and financialization of social provisions, this right turns back into proprietary, contractual relations.
- 4) The practices of international, multilateral financial institutions establish novel forms of social stratification and hierarchy on a global scale. Whether individuals, peoples or nations, the poor of the world are geographically verified and visually recognisable. This is not an innovation in practice, but indeed a replacement of

methods, parameters and reach. A newly formed basis of global classifications gives rise to renewed (and to an extent, unproblematic) technical modes of hierarchy. By being remedied with increasingly financial resources, not only the perception of the solution but the very nature of poverty is transformed. Poverty becomes a problem of finance and finance becomes elevated to the sanctified status of a human right. Finance capital expansion, breaking into new frontiers, new territories and new clientele, becomes a mission, a joint effort of a humanitarian international community.

Rather than purely responsive, in this frame of analysis, law is actant. Law determines the conditions of possibility of data. Law provides the sampling for data-generative practices; it selects the populations and territories, the samples of poverty to which scientific scrutiny and policy intervention will follow. Poverty is not a naturally occurring phenomenon, nor is it a social reality that science examines and policy works on; it is formed by the legally recognised poor, the formalised poor. Formalisation, i.e. assimilation into the “proper” form of poverty, is the underlying legal operation that is present in each of the preceding epochal thrusts of poverty administration. Moreover, law is continually perfecting its populational and territorial sampling. Legislation has historically generated volumes of evidence about the nature and the material conditions of the poor. This is how the reorientations in antipoverty legislation seen in this chapter are made sense of. Law has supported advancements in poverty research without raising many questions regarding the extent to which legislation created the conditions of the poor in the first place.

The historical transformations of the attitudes towards poverty have been recounted by way of indicating a pattern articulating what I am calling the compound of knowledge-law-intervention. This pattern reveals important elements of continuity between trends and shifts that could otherwise be viewed as completely different, succeeding and mutually exclusive ‘regimes’ of poverty management. However, the extent to which trends and commonalities can be found are also dependent on the broad view of what configures knowledge, law and intervention. The knowledge practices of classical political economists are antagonistic to those of social investigators, who in the twenty-first century collect big data on the world population, yet they are both assembled as modes of knowledge production. The measures of mass incarceration in no way resemble the social policies of social security and income benefit, but still they are both broadly construed as antipoverty policy. And, most importantly for a legal research, nineteenth century laws are utterly

distant from the rites of international law and human rights today, though they are also both assembled under the broad marker of law. The arrangements of such varied occurrences into the same legal terminology should not be taken for granted. In each collection of attitudes analysed in this chapter we find entirely different elements to be framed as legal codifications, scientific reasoning and interventionist approaches, to the extent that I could make a case that each collection reconstructs the nature, structure and functions of each component of the abovementioned compound. For example, as opposed to the early modern, disciplinary and punitive legislation, law under the welfare state can be seen to have been functionally transformed into a programmatic instrument of societal administration, as an interventionist device.¹⁹⁸ However, I set out to focus on the similarities, continuities and connections which reveal patterns of legal practices – even though of different emphases – to be situated within a constant technological role.

My argument here is that law, as a technology, can be located in a mediating position enabling two circuits, that of knowledge practices and that of intervention practices, or alternatively the science of poverty and the politics of poverty. These circuits are here presented as such, by assembling a series of practices that are seemingly disconnected, particularly from a contextual or an institutional point of view. For example, the war on poverty turned into a war against the poor in the United States is a context-specific policy framework. But, as mentioned, the USA foreign agenda of a war on drugs and a war on terror transposes the notion of the internal enemy to Latin America among other regions, which fuels a warfare that is at present in full power and which also works to criminalise the poor elsewhere.¹⁹⁹ At first sight, the association of the war on poverty in the 1970s USA and the war on drugs in Latin America today is read as an international order type of problem, mainly possible of being analysed through the lenses of dependency theory – if not as a demagogic appeal of conspiracy theories. The fact that the model of the internal or domestic enemy has been adopted by experts, as a technical knowledge by think-tanks dedicated to solving the problem of poverty and violence in Latin-American slums, is only reflected upon from a political and not scientific point of view. But indeed, the scientific categories of marginalisation and of a culture of poverty, among others, have been

¹⁹⁸ For this analysis, see Teubner's collection of critiques of welfare legal regulations as a formalist lament of the transition from classical formal law to the political instrumentalization of law by the welfare state. Gunther Teubner, 'The Transformation of Law in the Welfare State' in Gunther Teubne (ed), *Dilemmas of Law in the Welfare State* (Walter de Gruyter 1988).

¹⁹⁹ Wacquant describes how this process plays out in Brazil in Loïc Wacquant, 'The Militarization of Urban Marginality: Lessons from the Brazilian Metropolis' (2008) 2(1) *International Political Sociology* 56. As for the engendered images of the enemy and the dependent, see Martha L Cottam, *Images and Intervention: U.S. Policies in Latin America* (University of Pittsburgh Press 1994).

deployed in such areas,²⁰⁰ have played their role in shaping housing policy²⁰¹ and have generated a plethora of data that now work to objectively confirm the relevance of such standards, lenses and/or measures.

Likewise, although confined to a long-past yet deep-rooted history in Europe, it is interesting to identify how workhouse-like institutions, premised on confinement and reformation of the workshy, were trialled in the colonial territories before prison reformers rationalised punishment in Europe.²⁰² Similarly, the welfare state, never fully adopted in the underdeveloped 'Global South' – although it has been seen that it is also not cohesive and stable in the 'Global North' – has elsewhere introduced hybrid models of means-tested social benefits and homeownership where there are no social housing programmes, mixing slum-clearance and social housing discourse by means of the militarised violence of evictions, removals and displacement.²⁰³

Moreover, the mentioned use of laboratory-like practices, particularly but not exclusively in the developed-underdeveloped worlds relationality, illustrates other important connections between data collection and intervention policy dissemination. This was true quite early on in the case of scientific approaches to poverty knowledge, such as in the colonial laboratory of 'scientific colonisation', i.e. a 'scientifically informed pursuit of native development' by which, contrary to what common wisdom would suggest, the eugenic research in colonial Kenya, for example, was led by a progressive intellectual elite concerned with 'native welfare'.²⁰⁴ This is also true today when policy transfers occur within a technocratic appreciation of successful ready-made experiences elsewhere and supported by reputable experts worldwide.²⁰⁵ This can be found in practices demonising welfare recipients as part of the implementation of work discipline, as well as in a cross-sector criminal-financial exchange, where, for example, the war on drugs outreach into Latin America is conducted by intensive funding of law enforcement and 'generous foreign aid packages'.²⁰⁶ The 'laboratory rats', thus, have been shown to be the world's poor at large, regardless of clear-cut geopolitical partitions. While indigenous peoples were being exterminated in the 'New world', and racialised African bodies were being enslaved and

²⁰⁰ Milton Santos, *Urban Poverty* [In Portuguese: *Pobreza Urbana*] (first published 1978, Edusp 2013).

²⁰¹ Raquel Rolnik (n 138).

²⁰² Mira Rai Waits, 'Imperial Vision, Colonial Prisons: British Jails in Bengal, 1823–73' (2018) 77 (2) *Journal of the Society of Architectural Historians* 146; Seth Adema, 'More than Stone and Iron: Indigenous History and Incarceration in Canada, 1834-1996' (PhD Thesis, Wilfrid Laurier University 2016).

²⁰³ Raquel Rolnik (n 138).

²⁰⁴ Chloe Campbell, *Race and empire: Eugenics in colonial Kenya* (Manchester University Press 2007).

²⁰⁵ Peck and Theodore (n 150).

²⁰⁶ Carpenter (n 90) 26.

traded worldwide, Europe's poor were also being acted upon – punished, removed, forcibly migrated, confined, evicted, sanitised.

As David Englander noted, since the first attempt to develop a social measure in the nineteenth century Poor Law reform, policy figures have been the 'determinant rather than the outcome of empirical research'.²⁰⁷ On the other hand, we have seen how the implementation of twentieth century welfare modes of administrative practice prefigures a model of experimental policies and monitoring indicators of success at a global scale. An interesting consolidation of the role of data and indicators as evidence emerges: not destined to verify the efficacy of practices and policies in terms of their ends, but indeed aimed at the means. Or more on point, as Sally Merry Engles analysed in regard to the current 'obsession with indicators', it seems that we are not concerned with indicators of success on strategies of intervention but rather with successful use of funds, leading to what Sundhya Pahuja described as an accountability towards the donors, not the not the recipients of aid.²⁰⁸ As such, social sciences end up elaborating and authenticating with scientific objectivity the nonpoor's perception of poverty.

I will come back to the circuits of knowledge and intervention in chapter 4, when I will be addressing the workings of the industry of global poverty reduction. But I would like to stress here that while it is only at the end of the twentieth century that the industry emerged as a self-referring milieu – with recognisable institutional structures, flows of capital, career paths and expert formations – even before that the interactions of science and politics dedicated to poverty had already been at play and, indeed, stably mediated by law. This bridging or mediating role that I am assigning to law consists of understanding law as providing the procedural, formal and consolidated ways through which the industry of poverty reduction functions. It is by looking at the larger history of interaction between science and policy – where globally and locally distributed co-occurrences of poverty data and remedies are circulating, continually producing effects and providing the means for other occurrences as an intricate machinery that reproduces itself – that a stable role of law become visible. Surely, legal techniques can also be grouped by alternative approaches in order to identify other connections. For example, if one observes the clusters of poverty administration presented in this chapter as closed-end models, or epochal governing regimes, one would identify law's constitutive role in alternative compartmentalised fronts

²⁰⁷ Englander (n 18) 13.

²⁰⁸ Pahuja (n 172).

such as disciplinary institutions, racialised welfare policy regimes,²⁰⁹ neoliberal precarisation,²¹⁰ workfare and prisonfare, the neo-colonial international order, financial warfare, corporate global governance, the feminisation of microcredit interventions,²¹¹ as many critical studies do. With such lenses, one could still identify that law plays an overall role of preservation, although there is no agreement as to what is being preserved: the interests of the ruling class? The institutions? The sovereign? The project of modernity? The empire? Capital? However, the overarching legal role that I am expounding here is left unnoticed or secondary in such accounts. For example, criminal law's role of repressing the poor become far too distant from – in fact, inconsistent with – international contracts designed to transfer donations to support infrastructural developments in remote areas of the world.

So what is involved in this stable legal role that I identify? I am arguing that legal techniques enable poverty to be seen as a thing in the world. Legal techniques form, as such, a technology of visualisation. How can law be seen to work in the same overarching role throughout shifting trends of poverty administration? To return to a point made earlier, law mobilizes practices of seeing, of sampling, by creating the populational profiles and regulating the territorial distribution of poverty. Legal techniques are applied to select (to sample) in the material world that which fits the general concept and to eliminate that which has been left out of the frame. In other words, law creates the conditions of possibility for poverty to be seen in the world and to be acted upon. It establishes ways of seeing by distinguishing between the acceptable (seeable) poor and the objectionable (concealed) poor – the latter are, nonetheless, the results of law's own creation of poverty as a visible problem to be suppressed. As such, law underpins the modern gaze that visualises poverty and modulates territories and populations to adhere to the distributions of the seeable and the unseeable poor. It is, as such, a dividing gaze. But it does not merely separate the subject and the object of sight, the subject and the object of poverty alleviation; nor does it only subdivide the poor into the good and the bad poor. The dividing gaze, as I shall demonstrate, engenders a generalised visual economy that affects the everyday life of entire populations and territories of poverty which are deemed

²⁰⁹ Joe Soss, Richard C Fording and Sanford Schram, *Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race* (University of Chicago Press 2011).

²¹⁰ Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury 2011).

²¹¹ Sylvia Chant, 'The "Feminisation of Poverty" and the "Feminisation" of Anti-Poverty Programmes: Room for Revision?' (2008) 44(2) *The Journal of Development Studies* 165.

'excluded' from social dynamics, 'redlined' from economic activity, 'marginalised' from urban landscapes.

Interestingly, a reversed effect can also be sketched out: by making poverty visible law also emerges with a recognisable form. Dealing with poverty shapes legislation, the temporarily codified laws. As such, these emergent effects are not a blueprint to follow, a set of guiding principles prescribed by a fundamental authority. They are simply the result of all the practices involved in making it, which can only be (partially) identified in retrospect, by extracting the determinant procedures, components and contingent factors, architectures, genealogy and source-code that generates the contingent modes of existence and the functioning of an algorithmic performance. If we were to observe in retrospect how codified laws have emerged and transformed historically in the forms that they have, it might be easy to identify that they are not the ends, but rather the means by which knowledge and intervention operate. In this chapter I have presented some hints/clues of what was involved in the recent history of antipoverty legislation, by looking at different models simultaneously. Only an in depth look at each model could attempt to recollect the determinant steps that led to their formation. Yet, my purpose was to display law as something beyond the codified instruments that I presented as legal landmarks, not to inspect each of them. My aim was to contemplate on the complex circulation of trends, orientations, influences, communications that set in motion an industry of poverty reduction. I am interested in the machinery that enables such transmissions rather than in their content, aiming to capture the practices that are left invisible in records, reports, guidelines and indicators of success that are produced by such industry. In the next chapter I will take a closer look at how the making of poverty and the making of law are intertwined. I do that by taking a closer look at what has been mentioned here as the aesthetic features of law: legal-aesthetics is the thread that I use to navigate in and out the circuits of poverty knowledge and intervention.

CHAPTER 3

Poverty as a legal-aesthetic composition: quantifying and qualifying social problems

Reflecting on her ground-breaking feat on the measurement of poverty, Mollie Orshansky famously stated, 'For deciding who is poor, prayers are more relevant than calculation because poverty, like beauty, lies in the eye of the beholder'.¹ This is a peculiar statement coming from a statistician dedicated to social quantifications, yet it is extremely revealing of the aesthetics of poverty production. In this chapter I will delve into this point to maintain that scientific formulations and calculations of poverty form the conditions of poverty's verification and indeed manifestation in the world. I argue that poverty data does not merely represent a so-called social reality, it rather creates such reality. Scientific formulation of poverty works both as a sensory apprehension of perceived elements and as a performative gesture of creation that also has the power to deny the existence of other non-appearing social configurations.

While poverty specialists have early on adhered to a growing preponderance of quantitative over qualitative inquiry,² in this chapter I frame the quantification of 'social problems' as a matter of qualification. As such, quantifications are turned into qualitative designations (images) which, in turn, create new things in the world as social problems. To raise this argument, I draw aesthetic connections between knowledge, law and intervention – i.e., between scientific conceptualisations of poverty, images of the poor produced through legal technologies, and compositional configurations of populations and territories classified as in poverty. A peculiar challenge posed by the modern project of circumscribing poverty is that poverty itself is an aesthetic creation that is continually renewed by/within methodological innovations of measurement and policy. To be sure, Thomas Malthus' notion of poverty is not the same as Peter Townsend's notion of poverty, although both refer to economic growth or prosperity as a common denominator. These are particular and singular concepts and the continual reinventions of poverty seem to correspond less to new discoveries than to changes of lenses, of perspective. The changing

¹ Mollie Orshansky, 'How poverty is measured' (1969) 92(2) Monthly Labor Review 37.

² To mention Simmel again, as an example, in *The Philosophy of Money*, he identifies 'a cognitive tendency in modern science as a whole: the reduction of qualitative determinants to quantitative ones'. In Georg Simmel, *The Philosophy of Money* (Routledge 1978) 277.

concepts of poverty also bring to existence different images of poverty, different approaches to tackling poverty and different profiles of poverty, as has been discussed in chapter 2. Of course, the variable and renewable concepts of poverty refer to a common material condition of lack, as discussed in chapter 1. None of the critiques raised in this research are meant to suggest that poverty is a fantasy with no material grounds.

I will develop this argument guided by a material perspective on visualisation and cognition that follows Bruno Latour's foregrounding of the 'writing and imaging craftsmanship' of science.³ I seek to make sense of the history of poverty knowledge traced in the previous chapter through its innovations in techniques of inscription – i.e. the progressive changes in writing, documenting, drawing, inspecting, archiving, calculating, computing and so on – that produce onto-epistemological claims and which, in turn, accompany conceptual, theoretical and institutional transformations. As a wider aim, I interrogate poverty data in terms of the facts it produces, both as constructions and as autonomous realities at the same time. Hence, I investigate poverty data as inscriptions which present poverty as something to be known – it presents 'absent things' to the senses as objects for the procedures of knowledge.⁴ In that regard, I will return to the point I made in chapter 2 that, if law is to be construed as a visual technology, legal practices work as techniques of inscription and of sampling that condition the formation of data, which are then organised and classified by scientific scrutiny in order to produce an intelligible (readable and presentable) idea of poverty.

In the first section, I discuss the aesthetic aspect of knowledge production, with Chiara Bottici's theory of the imaginal.⁵ I refer to *aesthetics* in terms of its sense-making and world-making functions. I then turn to the established scholarship of 'law and aesthetics' to situate my argument within a perspective which highlights the practical and administrative basis of law (as a proper craftsmanship of visualisation, in Latour's terms), with reference to Cornelia Vismann and Alain Pottage. Vismann's approach to the media and the techniques by which a 'legal' problem is articulated is particularly useful to suggest that law itself also appears in the making⁶ – which is to say, both law and poverty are

³ Bruno Latour, 'Visualisation and Cognition: Thinking with Eyes and Hands' in Henrika Kuklick and Elizabeth Long (ed), *Knowledge and Society Studies in the Sociology of Culture Past and Present*, vol 6 (Jai Press 1986).

⁴ Inscription, according to Latour, assembles diverse traces into a visible form and presents them synoptically to the agonistic encounters of the scientific practice. Everything that composes the object of knowledge is transformed into immutable mobiles that become readable and presentable. Latour (n 3) 15.

⁵ Chiara Bottici, *Imaginal Politics: Images Beyond Imagination and the Imaginary* (Columbia University Press 2019).

⁶ Cornelia Vismann, 'Cultural Techniques and Sovereignty' (2013) 30(6) *Theory, Culture & Society* 83.

emergent effects that appear out of the knowledge and policy practices under examination. With Pottage, I contend that law cannot be captured as something that pre-exists its practical operations and codifications.⁷ I end with a reading of the history of science, chiefly from Theodore Porter, which points to the technological and creative features of social quantification in order to return to legal references, such as Mary Poovey and Annelise Riles, and to explore the effects of qualification which derive from the mathematization of the social.

3.1 Poverty knowledge: cognition, visualisation and normative world-making

The interdisciplinary field of poverty research is dedicated to assessing the extents and nature of global poverty – whether through econometrics, household surveys, ethnographies, cartographies or many other methods. As has been indicated, the emergence of social sciences at the turn of the twentieth century unfolds from the ambition to quantify social phenomena, poverty being a primary focus, involving a fundamental occupation with the task of measuring, counting and describing poverty through scientific methods. In the data-driven world of our times, the point of depicting poverty is often taken for granted and, when interrogating the social role of scientific knowledge, one should definitely raise questions: who are the receivers of such a picture, and for what purposes is the picture used?⁸ These certainly are politically relevant questions. However, they also take for granted another more fundamental question: can poverty be an object of depiction in the first place? What lies behind the project to quantify the social is an ontological assumption (or strategic postulation) that attributes a status of objective reality to poverty.

Surely, to say that poverty is objectively real, an identifiable object, is a methodological premise and should not be confused with a faithful and naïve belief held by social scientists. After all, in order to examine a particular ‘social reality’, one must conventionally decide on basic characteristics that isolate it from other nonessential variables. Nonetheless, the conventions of modern sciences presuppose that there is a reality out there to be studied and, admittedly, poverty of all ‘social problems’ definitely does evoke clear (yet historically forged) symbols that are visible and in plain sight. However, reality is not a given. Chiara Bottici recounts that the history of the notion of

⁷ Alain Pottage, ‘The Materiality of What?’ (2012) 39(1) *Journal of Law and Society* 167.

⁸ Else Øyen, ‘Poverty Research Rethought’ in Else Øyen, SM Miller and Syed Abdus Samad (Eds), *Poverty: A Global Review: Handbook on International Poverty Research* (Scandinavian University Press 1996) 9.

reality, as the material conditions of experience independent from the mind, is a recent, modern notion developed from Kantian philosophy.⁹ Not only is it recent, it is also continually changing. Reality evokes, in different periods and places, issues of presence, existence, being, experience and essence of things in the world. On the other hand, it also establishes that which will be deemed unreal, absent, inexistent, nonessential, insignificant, immaterial, imaginary, irrelevant, lifeless or void.

It is useful to hold on to the pictorial metaphor suggested in the term 'depiction' above: poverty knowledge works as a framing process. It paints a picture. Instead of revealing existing realities, poverty knowledge gives linear form to the chaos of social configurations which it attempts to apprehend and depict. Measurements and calculations give form, aesthetic form, to poverty, providing a conventional image to the hitherto absence of form. A social phenomenon is thus created. Specialist knowledge proposes claims of truth and useful notions in specific historic moments. Each new conceptual formulation engenders a corresponding praxis to deal with the conventional, yet transitory, notion of poverty – i.e. the prevailing interpretation at each given time. Furthermore, the normative features conventionally decided for the definition and classifications of poverty are internalised and lead to the differentiations between that which conforms to the classificatory structures and that which presents its negative counterpart – differentiations which lead, in turn, not only to the distinction between the poor and the nonpoor, but also to the frequently explored distinction between the good and the bad poor, the deserving and the undeserving poor (the latter being those who do not adhere to the conventional and normative aesthetical forms of poverty).

This is an important insight that should be emphasised from the outset: knowledge is aesthetic.¹⁰ In other words, a philosophical concept is an aesthetic creation and, likewise, a scientific category is also an aesthetic creation. Unlike the notion of reality, the aesthetic attribute of knowledge production is not a recent idea. Philosophical inquiries into perception and comprehension come from a long chain of influences and critiques dating back to ancient philosophy, as can be found in Chiara Bottici's genealogy of imagination and the imaginary.¹¹ In crude terms – as this is certainly not a theoretical lineage I wish to agitate – Plato's *phantasia* is described as being rooted in aesthesis (sensation, sense perception) and judgement in the sensible world of appearances, as a genuine form of

⁹ Bottici (n 5).

¹⁰ To that extent, as a concept and a scientific category, poverty is an aesthetic creation.

¹¹ Bottici (n 5).

knowledge separate from the understanding of intellect. With contemplation as knowledge's highest form, sensory perception differs in degree from ideas. Aristotelian's *phantasia* also corresponds to aesthesis and sensory apprehension, although ideas come from the sensible world and images mediate sense perception and conception. That is to say, knowledge is rooted in the senses and, even though immaterial, images (*phantasmata*) are sensed. Unified, composite images create the conditions of possibility for perception and cognition and, thus, it is through an aesthetic and affective operation that things appear in the world (things are presented to the senses) to be, then, interpreted, calculated, deliberated and acted upon.

Modern European philosophy, however, with the primacy of reason, stands on quite different foundations to the ancient connections between sensation and knowledge. In the modern worldview, the sensorial, aesthetic and affective aspects of knowledge production are replaced by purely rational, logical and empirical methods which, as mentioned before, presuppose an existing, external reality to be objectively known. Aesthetics and its subjective imagination are excluded from knowledge in modern philosophy.¹² The Enlightenment's emancipation of the subject from myths, in fact, postulates a new conception of reality that separates the subject and the object of knowledge.¹³ Kant's knowledge is the synthesis of sense data by intellectual pure reason, which is to say, in a Kantian, idealist tradition the mind conditions the perception of the world and external objects in space and time. Aesthetics, then, become the proper field of art, sensibility and pure judgment about beauty, in a 'division between reason and imagination, science and art, and thus critique and creativity'.¹⁴ Science and art produce competing or complementary representations of a given reality. To understand the external world is then a matter of experience combined with a priori concepts – the latter are universal and necessary knowledge not derived from experience. In other words, there is an element of a priori knowledge to the experience and perception of external objects.

Other philosophical traditions have since revisited the sense-knowledge connection, especially phenomenology at the turn of the twentieth century.¹⁵ Edmund Husserl studied the perceptual field of the experience – with objects being constituted in the perception of the experiencing subject – aiming to understand the ability of appearances to convey

¹² Bottici (n 5) 24.

¹³ Bottici (n 5).

¹⁴ Bottici (n 5) 26.

¹⁵ See in Horia Bratu and Ileana Marculescu, 'Aesthetics and Phenomenology' (1979) 37(3) Journal of Aesthetics and Art Criticism 335.

senses of reality. Instead of attempting to reveal what lies beneath the appearances of things, or to raise doubt about the existence of the perceived objects, the point was to show how objects are constituted as the things they are within the field of subjective experience. Husserl displaced the scientific world of objectivity and challenged an assumption of naturalism in philosophy and philosophical method. A 'life world' as opposed to an objective world of science, is a world of meaning disclosed by the suspension of the natural attitude. Developed further by Maurice Merleau-Ponty, among others, as an existential phenomenology, this scholarship is at the root of the relation of self and other in existentialism. Phenomenology excavates the apprehension and comprehension of objects, entities and events in the course of everyday experiences of the world, where reality manifests itself for human intelligibility and raises questions about the existence of an independent real world beyond human observation. The 'gaze' has since been theorised as an element of processes of subjectivation in poststructuralist schools of thought, and of objectification of others particularly in feminist and critical race theory. In the case of the latter, W.E.B. Du Bois and Franz Fanon exemplarily developed perceptual thinking and highlighted the flipside of the existentialist analysis by interrogating the effects of being seen and constituted as other – as well as the troubles of seeing oneself through the eyes of others.¹⁶ It is worth noting that the phenomenological understanding is aligned with the critical legal theories, as will be discussed below, based on recognition, and upholds a series of associations related to an idea of subjectivity as the individual identity of the subject. Although it is certainly important to interrogate the position of the subject as poststructuralist thinkers do, I would like to stress the importance of also focusing on the object of sight and perception, as I aim to do in this thesis.

Another school of thought that is important to mention is empiricism – from which social sciences later emerged. Empiricism, formalism and scientism derive from the shift in modern western thought that conceives of reality as an a priori product of human understanding.¹⁷ For David Hume and others at the forefront of liberalism, knowledge is based on experience, i.e. sensory experience, as opposed to rationalist, metaphysical ideas. The primacy of the experiment, of empirical evidence and of the scientific method later led to August Comte's positivism which later inspired the formation of sociology.

¹⁶ Namely Du Bois' notion of 'double consciousness' and Fanon's 'black consciousness under a white gaze' WEB Du Bois, *The Souls of Black Folk* (Penguin 1996); Frantz Fanon, *Black Skin, White Masks* (first published 1952, Pluto Press 1986).

¹⁷Bottici (n 5).

Positivist social sciences are particularly determinant as a field that arose from the reification of social phenomena towards quantification. From the early social statisticians and pioneers of the social survey to the contemporary aggregate data, quantification is rooted in an objective form of observing the world where immaterial and apparently unrelated elements can be drawn together to make visible what was previously unnoticed. Social sciences have followed an empirical approach to knowledge and poverty has typically been studied as a concrete problem, one that not only is part of an external reality but that also requires strategic intervention. This new applied science produced knowledge about poverty, as a problem to be solved. Although dedicated to social change, this new knowledge was seemingly produced without consideration of its own effects in the world – that is, of how it affected the very phenomenon it was trying to apprehend.

This is the point of my critique in this section. By seemingly not reflecting on its internal function (that knowledge is sensory only after a stage of creation) and its external functions (that knowledge affects its own object of creation and cognition, by fabricating new entities), it seems to have not occurred to poverty experts to interrogate the aesthetic effects of their own enterprise. However, the comprehensive examination of the historical connections between conceptualisations of poverty, images of the poor and interventions upon populations and territories classified as in poverty begs a more dedicated scrutiny about the fabrication of poverty and its effects in the world. Poverty as a concept is a pseudo-entity with no corporeal or incorporeal a priori or pre-social existence. Poverty is not the content of an impression of the world, but rather a construct, an image-entity that is projected onto the world. As a philosophical concept, poverty is grounded on undeniable material conditions, however it gathers such conditions into an image, a unifying category with no prior existence which is then retrospectively captured as a thing in the world. As useful constructions, nonetheless, associated with perceptions of an external world, the modern concepts of poverty accompany new ways of seeing and knowing the material world which link thought and experience and that, in turn, produce concrete effects. Such effects occur when images are projected into the world, informing worldviews. Subsequently, perception generates conception that in turn informs perception again. To put it more accurately: conceptualisations of poverty which are formed from the visualisation of samples and inscriptions will inform perceptions of poverty in the concrete world by framing populations and territories of poverty. This

means that perspective (regarding inscriptions) prevails over perception (of actually existing objects).¹⁸

The idea of poverty and the 'reality' of poverty in the concrete world are here recognised as part and parcel of the same productive circuitous machinery. To reiterate: there are material manifestations of poverty, but they take effect through the production of knowledge, i.e. they appear through different materialities depending on the techniques of inscription and articulation that frame them. This argument can be seen as a relativist attempt to disassociate notions of poverty from the materiality of a life rendered (seen as) 'in poverty'. However, this is not a discussion about the distinctions between poverty knowledge and the concreteness of poverty (even less so about the inability of scientific methods to accurately apprehend the reality of poverty). In fact, I have already indicated that there can be no presupposed distinction between knowledge and reality. Although I signal that there are effects of poverty data within everyday life dynamics, my goal is much more modest. I am making the case that the process of writing and imaging poverty is what makes it a visible and existing thing in the world, which is very different from denying the material conditions of lives in poverty.

In his piece titled *Visualisation and Cognition*, Bruno Latour¹⁹ analyses visual inscriptions in scientific procedures, according to which three-dimensional objects are translated into two-dimensional inscriptions (into devices such as maps, photographs, records, surveys, censuses, files) that are mobile, immutable and flat at the same time that they are reproducible, comparable, superimposable. Cascaded inscriptions work to mobilise and muster new resources to enter the agonistic encounters of knowledge production, accumulating allies and defeating dissenters. Writing and imaging, then, precede the worldly perception of a phenomenon. Through inscriptions, objects are presented to the senses. They compose a phenomenon to be perceived. Like 'economy' and 'market', I am suggesting that 'poverty' is also framed as a thing in the world after processes of inscription that collect and sum up 'a few indicators out of many traces' about foreign places and times.²⁰ First, as we have seen in chapter 1, the inscription of poverty occurs in the drawings of property that produce the propertied and the propertyless, through 'cuts' that organise and constitute the world into seemingly 'stabilised and sedimented' pre-

¹⁸ Latour (n 3).

¹⁹ Latour (n 3).

²⁰ Latour (n 3) 27.

social categories.²¹ Then, the inscription of the propertyless as ontological entities visualises the poor as problems to be fixed – as threats to be removed, or as indolents to be disciplined, and so on – as has been discussed in chapter 2. Law provides the crucial means through which such ontologisation occurs, by turning quantity into quality. This occurs because law is a technology of visualisation and, as such, it activates the intrinsically inscriptive functions of sampling. To put it in crude terms, legal practices are practices of inscription that condition scientific scrutiny.

Moreover, such inscriptions make it possible to modulate the objects whose traces they are meant to register and make visible. These are the terms with which I analysed poverty data production in chapter 2 as resulting from the interplay of knowledge, law and intervention. As resources engendered and mobilised by methods of quantification, ranging from early social surveys up to state-of-the-art innovations of satellite images and remote sensing, data make poverty visible as a unified and global phenomenon. Then, this constructed image of poverty is presented to the senses as an object for the aesthetic process of knowledge production and for intervention. In blunt terms: poverty is first invented and later perceived and I have established that law, broadly constructed, is a driving force mediating these processes. An immediate problem to be recognised in this order of things is that perception is limited to what has been offered to the senses, i.e. what was selected to form part of that object. The continually updated image will shape the changing paradigms of poverty knowledge. Another aspect to stress is that without this capacity to generate stable, mobile and comparable inscriptions, the material conditions of poverty would remain local and temporary manifestations of extensively diverse modes of existence. Latour's work is useful because it rejects the question about the relationship between cognitive abilities and social structures by discarding the social/cognitive divide which assumes that society is separate from its science, images and information.²²

As demonstrated in chapter 2, legal practices play a determinant role in the mechanism of accumulating and registering traces about 'the poor'. Yet, rather than simply construed as collecting empirical data from a supposedly objective reality of poverty, law seems to appear (to be made) in the innovations of inscriptions. It has been established, in fact, that legal techniques systematically affect the formation of general configurations and

²¹ Nicholas Blomley, 'Cuts, Flows, and the Geographies of Property' (2010) 7(2) *Law, Culture and the Humanities* 207.

²² Latour (n 3) 30, fn 17.

perceptions of poverty. At this point it seems more accurate to situate law – i.e., legal practices – at the core of a perspectivist arena that makes poverty perceivable in the first place. Whether by forming systems of poor relief, of confinement, of social assistance or of international aid, law is typically present in eugenic, punitivist, welfarist and humanitarian projects regarding ‘the poor’. In reflecting on the media-technological grounds of law, Cornelia Vismann²³ offers an important contribution to this point. By placing the historical transformations of law in the material basis of record keeping, lists, inventories and censuses, Vismann’s work allows for an analysis of their descriptive, prescriptive and performative operations, with particular attention to their functions: evidentiary, normative, reality-producing. As a result, ‘reality is what is found in files’.²⁴

I will move on to an analysis of the role of law in knowledge production and intervention. However, instead of stressing disparities, incidents where the world does not coincide with the official registers of poverty, I work along the historical construction of the ‘file-world’ of poverty in order to critique its interpretations as a matter of ‘fact’. The task to keep in mind, in parallel with the specific discussions presented in the next sections, is to explore how the ways in which law regulates poverty concomitantly engender particular unified images and actual ways of seeing ‘the poor’, i.e., how practices turn concepts into material facts. I will pick up on this point in the next chapter.

To clarify, by ‘image’ I do not mean to propose an exploration limited to the realm of the visual, although in the case of visual presentations of information and data the visual aspect of images is more evidently present. Image is broadly conceptualised as an aesthetic composition that merges sensorial, cognitive, affective and even imaginative elements. Yet, more than a construct resulting from creative methods, image is itself a technology that produces material effects in the world. In other words, as will be proposed in the next section, image is both representational and technological, both meaning-making and world-making. To lay out this argument, it is relevant to consider, following Vismann, that files (and their informational substrate, i.e., data) are mediums of presence with ontological qualities themselves. Files and data equip law with a ‘presentist effect’, i.e., oriented towards presence.²⁵ The aesthetic functions of scientific inscriptions of poverty walk hand in hand with legal-aesthetic modulations²⁶ of poverty. It is this

²³ Cornelia Vismann, *Files: Law and Media Technology* (Stanford University Press 2008) 9.

²⁴ Vismann (n 23) 56.

²⁵ Vismann (n 23) 10 and 54.

²⁶ At this point in the argument, it seems adequate to lay out that I use the term modulation to allude to variable and interpenetrable mechanisms that give shape to populations and territories without a reference

technological aspect rather than the content of 'images of poverty' that interests me in this research.

Finally, in considering the links between visibility and conceptualisations of poverty, I am putting forward the relativity of the concept of poverty in different visual economies and I am speculating about the so-called reality of poverty as we know it: the capitalistic poverty.²⁷ In doing so, I am bringing into view bridges between epistemology and ontology. From Bottici we learn that, as the product of both mental faculties and material conditions, images are not simply a visual resource.²⁸ Images are also functional, operative constructs which condition the world and its subjects. It is in the realm of the imaginary that I consider the interactions of knowledge, law and intervention practices. Not only knowledge is implicated in the aesthetic processes mentioned above; law is also mobilised by images and modulates the world through an aesthetic function. Hence, *Aesthetics* refers both to sense-making and to world-making. This feature is more noticeable at the turning point where perception (apprehension) of poverty as a social phenomenon becomes a productive tool (projection) for intervention in the material world. I will frame this turning point in the passage from quantification to qualification. But first, it is relevant to explore in more depth the existing literature that connects law and aesthetics.

3.2 Law and aesthetics: on legal technologies of perception and visibility

The connection between law and aesthetics is not a new proposition in critical thought. In fact, Birkbeck School of Law has nurtured various participants in the so-called scholarly movement of Law and Aesthetics, which investigates the sensorial interplay between legal

to a sovereign, disciplinary power or ideology actively and forcefully moulding the world. This is a term I take from Gilles Deleuze's analysis of societies of control, according to which modulation is contrasted to the moulding of 'spaces of enclosure' which Michel Foucault, in turn, critiqued in disciplinary institutions (family, schools, hospital, factory, prison and so forth). See Gilles Deleuze, 'Postscript on the Societies of Control' (1992) 59 October 3.

²⁷ It is important to stress here that according to Latour's framework of analysis, instead of maintaining a Marxist-materialist account of the history of science (according to which the new modes of production created a new way of thinking), 'capitalism' is usefully understood as a process of mobilisation of immutable mobiles. Capitalism is a process of mobilisation which refers to the capitalisation of material instruments, like money or any other inscription device, which are calculated and arrayed in cascades of larger and larger scale. The history of science and the history of capitalism meet in the power of their inscriptions, rather than in a supposed determinist relationality. Latour (n 3) 28-30.

Earlier in this thesis I defined 'capitalistic' notions, in terms of a thinking through capitalism, as a cohesive concept itself (See fn 1, Ch 1). This point will be picked up in chapter 4 where I raise the common history of different centres of calculation, such as economy, poverty research and law, which formulate the contemporary concepts of poverty (what is here referred to as the capitalistic poverty, in contrast with other epochal notions of poverty).

²⁸ Bottici (n 5).

subjects, objects and images. In this section I revisit some of the main references in this debate in order to situate my research as a contribution to this scholarship. As I adopt a particular understanding of what constitutes an 'image' – its properties, its mediums and its functions – I shall specify the direction my research prioritises amid the literature reviewed in this section. However, a more comprehensive genealogy of such scholarship is still needed and I do not attempt to do that in this thesis. To be sure, the investigation concerns the aesthetic functions of knowledge production, specifically the aesthetics of calculations and measurements of poverty, which in turn produce aesthetic effects on the material world beyond the direct impacts of interventions informed by such knowledge. The focus is on how occasional changes in methods of poverty definition and measurement can work to affect the geopolitics of poverty by presenting new imageries and producing new ways of seeing and framing populations and territories. In order to develop this argument, I suggest that law (legal techniques at large) is a moving force through which images become functional and productive. But how do legal theorists conceptualise images?

Tracing a history of critical legal scholarship, Costas Douzinas identifies in the 1980s and early 1990s an 'aesthetic turn' in the work of the so-called 'BritCrits'.²⁹ Influenced by continental and post-structuralist philosophy, such critics construed law as a linguistic category. Law is primarily examined as a 'textual web rather than a system of norms'.³⁰ While in the North American tradition of legal realism and pragmatism this has developed into interpretative practices highlighting contradictions in legal doctrines and decisions, the British critics focused on interrogating the authority and legitimacy of law as language³¹ and literature.³² Since the early stages of this growing scholarship, the analytical tools were as diverse as rhetoric, hermeneutics, semiotics, theology and psychoanalysis.³³ A fundamental understanding then was that law was as much a system

²⁹ Costas Douzinas, 'A Short History of the British Critical Legal Conference or, the Responsibility of the Critic' (2014) 25 (2) *Law and Critique* 187. A genealogy of Critical Legal Studies can also be found in Adam Gearey, 'Change is Gonna Come: Critical Legal Studies and the Legacies of the New Left' (2013) 24 (3) *Law and Critique* 211.

³⁰ Douzinas (n 29) 191.

³¹ E.g. Peter Goodrich, 'The Role of Linguistics in Legal Analysis' (1984) 47(5) *Modern Law Review* 523; Costas Douzinas, Roannie Warrington and Shaun McVeigh, *Postmodern Jurisprudence: The Law of Text in the Texts of Law* (Routledge 1993).

³² E.g. Adam Gearey, 'Finnegans Wake and the Law of Love' (1997) 8(2) *Law and Critique* 245; Maria Aristodemou, 'Studies in Law and Literature: Directions and Concerns' (1993) 22 *Anglo-American Law Review* 157.

³³ E.g. Peter Goodrich, *Oedipus Lex: Psychoanalysis, History, Law* (University of California Press 1995); Piyel Haldar, 'The Spectacular and Legal Forms of Legal Justice' (1996) 19(3) *Art History* 448; Costas Douzinas and Ronnie Warrington, *Justice Miscarried: Ethics, Aesthetics and the Law* (Harvester Wheatsheaf 1994).

of sign as it was a formative part of the symbolic order. As such, critics sought to deconstruct traditional notions of law and to view it instead as a fiction, albeit very effective in changing the world.

However, legal aesthetics also raises insights beyond the written forms, and more recent investments have attempted to draw structures and landmarks from multiple scholarships into the encounter between legal critique and aesthetics – Law and Image being one of these.³⁴ In an influential edited volume on *Law and the Image: The Authority of Art and the Aesthetics of Law*, Costas Douzinas and Lynda Nead³⁵ promoted intersections between law and art history. Contrary to ancient understandings that would situate them as antithetical, law and art are seen to be mutually implicated. The historical ambivalence of law towards reliance on and hostility towards symbols, between iconophilia and iconoclasm suggest, instead, that ‘law has always had an aesthetic policy’, whereas modern law is ‘an aesthetic practice that denies its art’.³⁶ The collection was pioneering in proposing to develop a legal iconology of law’s symbols, emblems, allegorical figures, courtroom architecture, staged performances and visual politics, from the concrete standpoint of legal cases, artworks, built spaces and historical artefacts. The contributions in this book foreground theoretical discussions about the gaze and the subject, recognition, representation of self and other, identity, and subjectivity within the then growing scholarship of Law and Image.³⁷ A few years later, Adam Gearey published *Law and Aesthetics*³⁸ to propose creative approaches to understanding law as an aesthetic phenomenon itself, capable of interrupting established categories and generating new legal relationships.

Another influential collection – *Law and Art: Justice, Ethics and Aesthetics* edited by Oren Ben-Dor – presents many legal scholars who are reflecting on the interdisciplinary and political encounters of law and art from diverse philosophical perspectives. The book delves into the ‘aesthetic sensibilities’ implicated in legal critiques and brings *aesthesis* to the forefront. Here, law is defined as an essentially aesthetic activity,³⁹ linking judgement of art and judgement of law, and proposing important reflections about the legal subject

³⁴ For an account of the field of law and image theory, see Marcus VAB de Matos, ‘How to Picture Sovereignty: A Visual Theory of Subjectivity and Subjection’ (PhD Thesis, University of London 2018).

³⁵ Costas Douzinas and Lynda Nead, *Law and the Image: The Authority of Art and the Aesthetics of Law* (University of Chicago Press 1999).

³⁶ Douzinas and Nead (n 35) 5.

³⁷ See also Costas Douzinas ‘Law’s Fear of the Image: Whistler v. Ruskin’ (1996) 19(3) *Art History* 353.

³⁸ Adam Gearey, *Law and Aesthetics* (Hart Publishing 2001).

³⁹ Oren Ben-Dor, ‘Introduction: Standing Before the Gates of the Law’ in Oren Ben-Dor (ed), *Law and Art: Justice, Ethics and Aesthetics* (Routledge 2011) 3.

within the oppressive and emancipatory dimensions of legal aesthetics. A clearer sense of how to legally conceptualise images begins to find resonances. In this collection, Costas Douzinas develops a *Legal Phenomenology of Images*, where the image is defined as ‘the object of vision’ which constitutes the subject of law as the ‘modern seeing subject’.⁴⁰ The subject operates an ‘imagistic perception’ of the external world and internalises its images into ‘mental representations’. Perception, under this framework, is taken to be a ‘specular operation’ of consciousness. The ‘image phenomenon’ is said to hold this function of making visible, of presenting the absent. The image is distinct from the thing being depicted but its operation is that of presenting that thing as an entity, not simply a mimetic representation. Thus, in this phenomenological approach to images there is a sense of differentiation between perception and reality – ‘The image poses the thing for a subject. In this ‘presencing’, the thing is assembled into being for the viewer. [...] in doing so, both the thing and the subject are called into life, the image turns anything into something for someone’.⁴¹ This move confers unity and identity to the subject of vision and the object of gaze.⁴² It also situates law as part of the ‘normative control of the visual’ – which lays the policing of images and the economy of permitted images – forming regimes of vision corresponding to different historical epochs. Such ‘legally conditioned regimes of visibility’ administer historically changing ways of seeing ‘as natural, normal and truthful’⁴³ and determine the symbolic constructions by which things appear or are concealed in the field of vision.

This phenomenological approach is much indebted to earlier conceptualisations of image as emblematical representation, which is connected to the foundations of modern legal culture and the constitution of the legal subject.⁴⁴ Both approaches place images as bearers of signification, the conditions of possibility for bodies to exist and to make sense of the world. However, the former also draws on earlier philosophical influences, such as Husserl himself, but also Heidegger and Jean-Luc Nancy, to develop more grounded formulations of and indeed interventions in the ‘lifeworld’. It is in this sense that Douzinas’s image can be conceptualised as an independent object, rather than a mere

⁴⁰ Costas Douzinas, ‘Legal Phenomenology of Images’ in Oren Ben-Dor (ed), *Law and Art: Justice, Ethics and Aesthetics* (Routledge 2011) 253.

⁴¹ Douzinas (n 40) 248.

⁴² Douzinas (n 40) 253.

⁴³ Douzinas (n 40) 254.

⁴⁴ See Pierre Legendre, ‘Introduction to the Theory of the Image: Narcissus and the Other in the Mirror,’ Peter Goodrich and Alain Pottage (trs) (1997) 8 *Law and Critique* 3.

simulation or repetition of an existing object – representation, thus, stands for an act of creation and presentation.

I will draw on this concept of the image in order to elucidate other important references that allow me to study poverty data as image. Before I do that, I would like to make a brief reference to the numerous contemporary intellectual debates, coalesced from such diverse chains of influences, and which in different ways helped me to determine my research questions and calibrate the arguments I present in this thesis. For example, from the phenomenological perspective, Leif Dahlberg's collection *Visualizing Law and Authority* also argues that legal aesthetics present ways of seeing, i.e. form part of the mechanisms and structures that allow us to decode the world into everyday perceptions and social interactions. With reference to Merleau-Ponty, Dahlberg hints that not only is the world constituted by the ways in which it 'appears to us', it is also the case that we are constantly 'learning to see' and to transform that very world. Within this framework, 'law constitutes a visual and aesthetic field of cognitive and normative world making',⁴⁵ which ontologises legal categories and concepts. Another collection worth mentioning is Anne Wagner and Richard Sherwin's *Law, Culture and Visual Studies*, a landmark in the intersection of legal and visual studies, examining law's intermediation with diverse forms of contemporary visual media technology, communication and culture.⁴⁶ Also, Karin Van Marle and Stewart Motha's *Genres of Critique: Law, Aesthetics and Liminality* seeks to explore 'critique through aesthetic forms' by inspiring a kind of anti-colonial ethics to guide critical legal thought and practice expanding into other geographies, with a primary focus on South Africa.⁴⁷

Besides these ground-breaking collaborative publications, there are also numerous individual works published in journals around the world that could be sampled to form part of this scholarship, which is no longer enclosed within the disciplinary boundaries of British critical legal studies. In fact, Linda Mulcahy also refers to a 'visual turn' in socio-legal studies, where images have been found to offer useful tools to construct 'revisionist histories of socio-legal subjects' at the margins of the legal system.⁴⁸ Likewise, in the North

⁴⁵ Leif Dahlberg, 'Introduction: Visualizing Law and Authority' in Leif Dahlberg (ed), *Visualizing Law and Authority: Essays on Legal Aesthetics* (Walter de Gruyter 2012) 4.

⁴⁶ Anne Wagner and Richard K Sherwin, 'Introduction: Law, Culture and Visual Studies' in Anne Wagner and Richard K Sherwin (eds), *Law, Culture and Visual Studies* (Springer 2014).

⁴⁷ Karin Van Marle and Stewart Motha, 'Introduction' in Karin Van Marle and Stewart Motha (eds), *Genres of Critique: Law, Aesthetics and Liminality* (SUN Press 2014) 15.

⁴⁸ Linda Mulcahy, 'Eyes of the Law: A Visual Turn in Socio-Legal Studies?' (2017) 44(1) *Journal of Law and Society* 121.

American critical legal tradition, there has also emerged what has been termed ‘visual jurisprudence’.⁴⁹ The diversity of writings could be arranged in reference to the multiple forms of visual media: photography,⁵⁰ film,⁵¹ design,⁵² street art,⁵³ digital images,⁵⁴ architecture,⁵⁵ urban landscapes,⁵⁶ acts of protest and imagined futures⁵⁷ and, indeed, images that go beyond the visual⁵⁸ or include other sensorial and affective dimensions.⁵⁹ The diversity of intellectual work in the field could also be ordered according to how images and legal practices are framed – evidential objects,⁶⁰ forensic architecture,⁶¹ visual criminology,⁶² legal feminist aesthetics⁶³ and so forth – and could even include an understanding of aesthetic forms as gestures of violence.⁶⁴ More recently, Desmond Manderson organised another important book on *Law and the Visual*⁶⁵ – to which I will now turn – where he identifies at present three ‘constellations of research interest’ in the field: ‘visual representations *about* the law, visual technologies *in* the law, and aesthetic critique *of* the law’.⁶⁶ These distinct emphases reiterate the multiplicity of approaches that have proliferated within what a few decades ago could be seen as a momentary encounter between disciplines.

⁴⁹ Richard K Sherwin, ‘Visual Jurisprudence’ (2013) 57(1) New York Law School Review 11.

⁵⁰ E.g. Katherine Biber, *Captive Images: Race, Crime, Photography* (Routledge 2007).

⁵¹ E.g. Leslie J Moran et al (eds), *Law’s Moving Image* (Cavendish Publishing Limited 2004); Nathan Moore and Anne Bottomley, ‘Law, Diagram, Film: Critique Exhausted’ (2012) 23(2) Law and Critique 163.

⁵² Linda Mulcahy, ‘Architects of Justice: The Politics of Courtroom Design’ (2007) 16(3) Social & Legal Studies 383.

⁵³ E.g. Alison Young, ‘Criminal Images: The Affective Judgment of Street Art and Graffiti’ (2012) 8(3) Crime, Media, Culture 296.

⁵⁴ Louise Amoore, ‘Lines of Sight: On the Visualization of Unknown Futures’ (2009) 13(1) Citizenship Studies 17.

⁵⁵ E.g. Anne Bottomley and Nathan Moore, ‘What is a Building? Documents for the Contractual Diagramming of Design’ (2012) 16(3) Architectural Research Quarterly 261.

⁵⁶ E.g. Andreas Philippopoulos-Mihalopoulos (ed), *Law and the City* (Routledge 2007).

⁵⁷ E.g. Oscar Guardiola-Rivera, ‘A Jurisprudence of Indignation’ (2012) 23(3) Law and Critique 253; Lucy Finchett-Maddock, ‘Seeing Red: Entropy, Property, and Resistance in the Summer Riots 2011’ (2012) 23(3) Law and Critique 199.

⁵⁸ E.g. Desmond Manderson, *Songs Without Music: Aesthetic Dimensions of Law and Justice* (University of California Press 2000).

⁵⁹ E.g. Andreas Philippopoulos-Mihalopoulos, ‘Atmospheres of Law: Senses, Affects, Lawscapes’ (2013) 7 Emotion, Space and Society 35; Emanuele Coccia, *Sensible Life: A Micro-Ontology of the Image* (Fordham University Press 2016).

⁶⁰ E.g. Piyel Haldar, ‘Law and the Evidential Image’ (2008) 4(2) Law, Culture and the Humanities 139.

⁶¹ E.g. Eyal Weizman, *Forensic Architecture: Violence at the Threshold of Detectability* (Zone Books 2017).

⁶² E.g. Eamonn Carrabine, ‘Just Images: Aesthetics, Ethics and Visual Criminology’ (2012) 52(3) British Journal of Criminology 463.

⁶³ E.g. Honni van Rijswijk, ‘Towards a Feminist Aesthetic of Justice: Sarah Kane’s *Blasted* as Theorisation of the Representation of Sexual Violence in International Law’ (2012) 36(1) Australian Feminist Law Journal 107.

⁶⁴ E.g. Patricia Tuitt, ‘Literature, Invention and Law in South Africa’s Constitutional Transformation’ in Karin Van Marle and Stewart Motha (eds), *Genres of Critique: Law, Aesthetics and Liminality* (SUN Press 2014).

⁶⁵ Desmond Manderson, ‘Imaginal Law’ in Desmond Manderson (ed), *Law and the Visual: Representations, Technologies, and Critique* (University of Toronto Press 2018).

⁶⁶ Manderson (n 65) 9.

Manderson's collection is a relevant source for my research as it, in a way, bridges the earlier phenomenological approaches and the 'legal materialities' that I embrace in broad terms. Although there are fundamental philosophical incompatibilities between the two, connections can be established in that both perspectives encompass the notion of an autonomous status of images regardless of their correspondence to reality. In fact, both perspectives understand that what we call 'reality' is precisely an outcome of imaginal resources rather than a pre-existing configuration. A material approach will assume that there can be no reference to an 'out there' as there is no dualist sense of reality and there have always been just images,⁶⁷ whilst a phenomenological position remarks that reality is simply not accessible beyond the extent of our symbolic order. This is a discussion that can be developed further in the abovementioned debate around appearances and reality.⁶⁸ For both, denying reality or suggesting that it is all fabricated and, thus, unreal, is definitely not the pertinent critique. The effective critical gesture is to indicate that such fabrications are functional. Hence, the point that is relevant to this chapter is that, in different ways, both see how 'fictions' of any kind (knowledge, law, imaginal creations) are operational, productive or functional, which is to say that such 'fictions' concretely affect the world. This is the core of my inquiry, which I have clarified by laying out the primary caveat of not taking poverty to be immaterial just because I examine it as a fabrication.

The philosophical disparities between the two approaches, however, cannot simply be overlooked. The cited references in the field of 'Law and Aesthetics' place images as a mediation between the subject and the world – whether the world is formed from the subject's perspective, or the world determines the subject. Emphasis is placed on the visual interplay between subject, object and images, where images are a medium of representation of objects to the subject and, as such, partake in the process of subjectification. However, with Bottici's approach, as presented in the previous section, images can be usefully placed as the analytical starting point.⁶⁹ Whereas, since its early stages, law and aesthetics involved experimentations with postmodern influences, the emphasis on legal materialities is a more recent connection, where image attains material and visual presences and indeed agency. Whilst making reference to a framework of material culture, Kate West has pointed to a 'material turn' within the interplay of visual studies and critical legal theory, which signals a move to conceptualise both law and image

⁶⁷ Nathan Moore, 'Image and Affect: Between Neo-Baroque Sadism and Masochism' (2013) 57(1) New York Law School Review 97.

⁶⁸ Bottici (n 5).

⁶⁹ Bottici (n 5).

in material terms, that is, not simply in terms of their aesthetic content, but perhaps in their objecthood.⁷⁰

Indeed, scholars of legal materialities clash with postmodern analyses because of the latter's presupposed relationality between subject, object and image which attributes exclusive acting agency to the subject. The divide between subject and object has been characterised by Marilyn Strathern⁷¹ as a modern analytical division which upholds other modernist divides that are, in turn, commonly critiqued by the so-called postmodern literature (e.g. culture-nature, law-society, us-them, self-other). From a legal standpoint, Vismann wrote about a relational middle ground to be established within the subject-object divide so as to productively destabilise these analytical structures and to contradict the 'legally sanctioned notion' that only the acting subject is an agent at 'the source of a conflict or a legal matter'.⁷² In Vismann's proposition, media and things, in fact, determine the subject's field of action, which is to say, the 'operation itself produces the subject, who will then claim mastery over both the tool and the action'.⁷³ Law-making is an operation, conditioned by previously configured legal forms, and in which 'the object of disputation, and the rules of decision also play a part in the production of the actual law'.⁷⁴ This shift in angle sets off a medium-based perspective, according to which media function as carriers of operations and 'the sovereign subject becomes disempowered, and it is things that are invested with agency instead'.⁷⁵ Therefore, media are construed as performers, rather than objects of passive existence. The methodological implication in adopting this perspective is to attempt to extract, from operations, their rules of execution, their codes of procedure, their practical expertise, their 'algorithmic dimension', which in itself 'contradicts the spontaneity of the gesture'.⁷⁶ In that sense, 'law' is nothing more than a practical operation – one that, according to Alain Pottage, differentiates the legal and the non-legal⁷⁷ – and will be shaped by its own processes. The operation itself produces law, rather than being activated by an acting subject of law. The observation of media and the techniques by which legal problems are articulated and responded to entails admitting that law is not a pre-existing formation that defines operations and codifications.

⁷⁰ Kate West, 'Feeling Things: From Visual to Material Jurisprudence' (2020) 31(1) *Law and Critique* 113.

⁷¹ Marilyn Strathern, 'Cutting the Network' (1996) 2(3) *The Journal of the Royal Anthropological Institute* 517.

⁷² Vismann, 'Cultural Techniques and Sovereignty' (n 6) 3.

⁷³ Vismann (n 6) 2.

⁷⁴ Vismann (n 6) 3.

⁷⁵ Vismann (n 6) 4.

Vismann foregrounds agency as 'a mode of operation neither entirely detached from the acting subject nor fully independent from 'objects' (i.e. things and media)'. Vismann (n 6) 5.

⁷⁶ Vismann (n 6) 5.

⁷⁷ Pottage, 'The Materiality of What?' (n 7).

Hence, not only poverty, but also law itself is a social-technical formation and, in their interconnection evoked in this thesis, law is also made through its making of poverty. This is the approach towards which the analyses in chapter 2 has driven me, by identifying that the commonly acknowledged causal link between the findings of social sciences and the refinements of legal codes is only partially what occurs in this disciplinary encounter. Following this frame of analysis, I consider that both law and poverty appear as emergent effects of inscriptions and prescriptions. Although I am not, in this thesis, looking into the materiality of images as objects per se, in terms of methodology, I draw on materialist references to address the technological aspect of images that facilitate material transformations. I claim that images produce material effects, in fact, produce and transform realities. Furthermore, I claim that law is part of that mechanism because, on the one hand, images work as legal technology and, on the other, the operations which we call 'law' are mobilised by images and modulate the world through aesthetic functions.

Imaginal law, as Desmond Manderson borrows the term from Chiara Bottici, is to say that, like politics, law operates through images to frame, communicate, constitute, legitimate and realise both the subject and the world. Law's imaginal feature refers to its operations as a visual discourse, i.e. an 'emphasis on visual media's vital components of the discursive operations that organize and interpret normative, aesthetic, and legal structure around us'.⁷⁸ Yet, image is not simply a medium, an evidence or portrayal of social dynamics, it is also an independent thing, a form that modulates and validates law's enactment – the imaginal law is 'a law of and in the image'.⁷⁹ It is in that sense that chapter 2 in this thesis presented different visual models of poverty and their respective images of 'the poor' which have been at the same time formed by law and have shaped law's functioning – thus, simultaneously symptomatic and operational. In Manderson's collection, Shane Chalmers' schematic conceptualisation of image as a transitional phenomenon is particularly relevant to this point. To paraphrase Chalmer's scheme, image transitions between representational and technological dimensions – i.e. as a meaning-making medium that makes visible, in the first case, and as a world-making object of visualisation which is physically present in a world that alters around it, in the second. This transitional image presents four aspects that occur simultaneously:

⁷⁸ Manderson (n 65) 4.

⁷⁹ Manderson (n 65) 5.

(1) as representation, images provide a fluid medium for seeing and revealing, and overlooking, their object; but (2) as representation, images also create their object through visualization – making visible what would remain otherwise unseen; and (3) as technology, images are a product of history, bound to their own objectivity; but (4) as technology, images also course through history, whilst being defied or ignored by a world that shifts around them.⁸⁰

This scheme assembles a working definition of image that I adopt in this thesis. However, as I have already indicated, I am referring to images of poverty contained in poverty data. The visual assemblages, collages and associations that data enables make poverty visible, material and operational with normative functions. From what has been discussed thus far, knowledge practices are undoubtedly active in this production, but they also presuppose a legal operation of selecting and sampling the objects of scientific inspection. I will now establish another bridge between knowledge and legal practices in the production of poverty, i.e., that which turns scientific findings and quantifications into further legal and political qualifications that make poverty a verifiable occurrence in the world that, in turn, confirms its imageries. Richard Sherwin's term 'visual economy of presence' is useful to indicate that, rather than establishing a kind of visual regime that determines ways of seeing, law both reflects and implements aesthetic registers by which 'reality' appears in the world.⁸¹

While I am interested in the rules of procedure that generate poverty knowledge, I am most interested in the operations through which poverty is transformed into an existing phenomenon, i.e. how the conceptualised poverty is materialised in the world and how that materialisation puts in motion a series of implications that remain typically concealed or rendered secondary to the phenomenon of poverty that we are able to see under the frameworks of a modernist perspective dividing a 'subject who acts and an object that serves'.⁸² This is the ultimate purpose of this research, to comprehend what is left behind in poverty definitions as integral elements of poverty rather than the excluded, not pertaining, 'outside'. A guiding assumption of this theorisation is to consider, first, the calculative treatment of poverty as an aesthetic composition, i.e., a *framework* that also invisibilises other elements that are out of frame. A second stage is to regard legal

⁸⁰ Shane Chalmers, 'The Visual Force of Justice in the Making of Liberia' in Desmond Manderson (ed), *Law and the Visual: Representations, Technologies, and Critique* (University of Toronto Press 2018) 143.

⁸¹ Richard K Sherwin, 'What Authorizes the Image? The Visual Economy of Post-Secular Jurisprudence' in Desmond Manderson (ed) *Law and the Visual: Representations, Technologies, and Critique* (University of Toronto Press 2018) 332.

⁸² Vismann (n 6) 6.

practices as partaking in the transformation of quantities of poverty into qualities of poverty, by ways of legal-aesthetic modulations. I turn to this second stage now.

3.3 From social quantification to the qualification of populations and territories

By introducing a material approach to the discussions formulated by scholars in the field of 'Law and Aesthetics', I have argued that poverty data is creative of poverty as an existing reality. My point, then, is that law is a crucial technology operating at the turning point where data becomes fact, or where a statistical entity becomes a factual entity.⁸³ In other words, what social sciences produce as quantification, legal frameworks turn into qualification. If we see quantification and measurement in terms of what they are intended to generate through science – that is, as objective, standardised and mathematical descriptions of the complex 'external world' under observation – then their aim is to know the reality, the real nature of things in an independently existing world. However, considering that we have seen that reality is after all an artifice, quantitative data are turned into qualitative designations (composed, collated images) that, in turn, create new things in the world (social phenomena, social problems). Differently from a deconstructive approach that would question the universality of scientific knowledge, my critique is not suggesting that quantitative data should not be viewed as valid, reliable or useful. While I certainly agree that it is not possible to claim that knowledge production can ever accurately apprehend the so-called external world, I claim that this is the case because there simply cannot be a distinction between knowledge and reality as both Latour and Bottici remark. Furthermore, while there certainly are ideological and political interests behind practices of quantification, as Marxist critics have overwhelmingly exposed, this is also not the emphasis of my critique. The emphasis, again, is on the technological aspect of scientific knowledge, that is, what it intentionally or unintentionally creates in the world.

The argument I now present is that quantification of poverty promptly becomes qualification of poverty and that concrete interventions – largely processed by way of law and legal operations – generate a whole set of consequences for populations and territories classified as 'in poverty' or 'poor'. In a more immediate dimension, this is the doing of administration, management and bureaucracy. But in a broader legal dimension, I am questioning how data normatively organises the world in a shift from epistemology to

⁸³ Theodore Porter, 'Making Things Quantitative' (1994) 7(3) *Science in Context* 389.

ontology. What happens to the world that poverty data claims to depict? My argument is that poverty data creates the visual economy of a particular form of poverty that needs to be acted upon and, in doing so, it is also generating a different mode of intervention in social dynamics that do not meet the poverty standards and thresholds. Notice that this is different from claiming that data is only capable of detecting and depicting some but not other aspects of a real-world phenomenon. Instead, to paraphrase Theodore Porter, poverty data are able to describe social reality because they help to define it and, indeed, to create it.⁸⁴ As a result, antipoverty law, as both a source and a consequence of poverty data, engender corresponding modes of visualisation, knowledge and intervention. This operative interplay between data and law is what I will refer to as legal-aesthetic modulations upon populations and territories.

From a history of science perspective, as put forward by Theodore Porter,⁸⁵ quantification is a social technology, a method directed towards practice instead of pure theoretical abstraction. In both the natural and the social sciences, calculation renders the world objective, a proper object of scientific inquiry. The modern appeal of social quantification, says Porter, is not merely about an aspiration of social sciences to be viewed as a proper science, by mirroring methods from natural sciences. The experimental study of empirical reality is, rather, aimed at finding and measuring problems to inform policy solutions – hence the intrinsic link between social research and social policy (or of science, management and technologies of decision-making). An appraisal of this historical intertwining of science and technology requires tracing the modern history of social quantification in relation to professions and bureaucracies, before it came to constitute the foundational principles of academic disciplines. Porter refers, for example, to economic mathematics in the aftermath of calculations to support policy advice. Censuses also have a much longer history than social research, but in the order of demographics and statistics as technologies of government rather than of theory production. Porter points to this curious arrangement where quantitative measurements go back to ancient times but under an instrumental, practical imperative rather than an abstract, scientific one. Numbers were originally the domain of practical activities (e.g. commerce and administration) instead of the domain of mathematics, whose ancient root is geometry, whereas ‘arithmetic and algebra were born as practical arts’.⁸⁶ Thus, quantification has

⁸⁴ Theodore Porter, *Trust in Numbers* (Princeton University Press 1995) 42; Porter, ‘Making Things Quantitative’ (n 83).

⁸⁵ Porter, *Trust in Numbers* (n 84).

⁸⁶ Porter (n 84) 49.

only recently been used for the testing of theories, having up to mid-nineteenth century been centrally applied for management of people and nature, particularly in the aims of improving industrial technologies (in engineering and banking, for example). In Porter's words, 'The economic writings of physicists and engineers, at least up to the 1930s, suggests that the ambitions of scientists have been more closely allied with ideals of quantification and control than with abstract mathematical formulation. Measurement was not simply a link to theory, but a technology for managing events and an ethic that structured and gave meaning to scientific practice'.⁸⁷

In chapter 2, I demonstrated this shift which inaugurates poverty research in the twentieth century. Here is how Bales presented Charles Booth's understanding of his own work:

Early in his research on poverty he [Booth] wrote that policy could 'be built out of a big theory, and facts and statistics run in to fit it', but this was not the way he wished to work. Instead he sought to construct through research 'a large statistical framework built to receive an accumulation of facts'. When this framework was filled with all the available data and evidence, then from it might be 'evolved the theory and the law and the basis of more intelligent action'. Carried into practice the construction of this framework and the collection of information to fill it would consume the efforts of Booth and his research staff for seventeen years. To achieve this 'accumulation of facts' aggregate statistical analysis was combined with observation and participation to present a balanced and human portrait of the life of, what was then, the largest city in the world.

Booth's work was a search for factual information, his orientation essentially inductive and positivist. Viewed from a temporal distance that allows his work to be placed in its historical context, it becomes recognisable as a response to the deductive and grand theoretical approach of many of his contemporaries.⁸⁸

The incorporation of mathematical formulations into economic policy has accelerated since the second half of the nineteenth century. What started as an introduction of physics to social and economic decision-making, Porter explains, gradually developed to incorporate more abstract mathematics and statistics into social policy. Social dynamics have thus been transformed into problems, i.e., mathematical problems to be solved through equations. Still, applied mathematics was interested in practical problems. For example, the statistical movements in nineteenth-century Europe – the epicentre of which was England with the Statistical Society of London – were proponents of a mathematical, inductive alternative to abstract, deductive political economic theories by promoting empirical investigations able to generate accurate data of the concrete world or to 'use of

⁸⁷ Porter (n 84) 72.

⁸⁸ Kevin Bales, 'Early Innovations in Social Research: The Poverty Survey of Charles Booth' (PhD Thesis, University of London 1994) 18-19.

mathematics to show the inconclusiveness of existing theory'.⁸⁹ Notwithstanding the fact that it was a move to make political economy more empirical and scientific, Porter remarks that the mathematization of economics was largely aimed at social reform, to adequately and reliably inform public intervention – as has been discussed in chapter 2. The advancement of quantitative techniques walked hand in hand with philanthropy.

As mathematical constructs, to borrow from Marcus Faro de Castro's analysis regarding what he termed the 'devices of interest aggregation',⁹⁰ social data and indicators are simultaneously artefacts (that is, products of 'expert networks') and apparatuses (they hold a strategic function). Social data present cognitive, political and economic implications and facilitate structural changes to social organisation. They are social conventions organised as social reality via institutional processes with secured intellectual control over their creation and manipulation. Furthermore, such data constitute the elemental frameworks of policies, technologies and markets leading to infrastructures of global governance generally neglected by critical legal theory. As Sally Engle Merry explains, 'Indicators are a technology of not only knowledge production but also governance. [...] Standardized measures mean that the state can better administer its population'.⁹¹ Nevertheless, law works as a part of this process, both in the production of data and in the legitimization of policy designs which those data have inspired. This is a point where the main references of this chapter meet, that is in pointing out the different ways in which numbers generate norms while also being co-produced in legal moments whereby the things that are counted are themselves categories derived from legal operations. Through data, individuals are made governable, as Porter writes, and government takes shape as an entity in recording itself into a file-based system of power, as remarked by Vismann.⁹² Indicators become, indeed, a technology of global governance. Latour's centres of calculation become centres of legal production that dictate, prescribe and govern. Bottici reminds us that, while sovereignty is typically representational, the term governance was recently coined to denote the politics of the World Bank, as opposed

⁸⁹ Porter (n 84) 53.

⁹⁰ Other such 'devices of interest aggregation' are listed as 'indicators, softwares, formulations of mathematical logic underlying internet codes, algebraic formulas, algorithms, econometric models etc.' In Marcus Faro de Castro, 'Policies, Technology and Markets: Legal Implications of their Mathematical Infrastructures' (2019) 30(1) *Law and Critique* 91.

⁹¹ Sally Engle Merry, 'Measuring the World: Indicators, Human Rights, and Global Governance' (2011) 52(3) *Current Anthropology* 85.

⁹² Vismann, *Files* (n 23) 78.

to the functions of national government. Governance is based on images from different perspectives, that is as a technique, a politics within the crisis of representation.⁹³

In previous chapters I referred to this in terms of how the creation of racial categorisations directly affects populations, and how crime rates affect territories. Statistics transform the world that science purports to describe. To return to Cornelia Vismann's point and to add to Porter's frame of analysis, scientific advancement is a social process that requires administrative work, bureaucratic structure, professional expertise and it produces constellations of data, documents, files and archives. Reality is composed from inscriptions in files, through which invisible dynamics are made visible as functioning structures. Similarly, Latour describes how the economy of a nation is turned visible in graphics, charts, lists, tables. But something else is at stake in what Porter indicates is the 'creative power of statistics'. Society and its structures, analysed both in idealist and materialist traditions, are statistical categories which gain the status of entities, and 'Having become official, then, they become increasingly real'.⁹⁴

Calculations establish standards, codes and norms. But a distinction must be maintained between the description and the prescription. In an analysis of the global financial crisis which began to unfold in 2007, Mary Poovey shows how neoliberal financial models, originally designed as a metaphor to algorithmically simulate the economy and manage uncertainty, were deployed by professionals, actualised in the world and treated as an actual description of the system it supposedly depicted, thus affecting the way the financial market works and generating further uncertainty.⁹⁵ At the heart of the subprime crisis caused by the proliferation of unregulated derivatives was a model of the housing market which was operationalised by investors as if it was an actual representation of reality, instead of a modelled simulation of behaviour, risks and fluctuations in the real estate market. An economic theory – e.g., the theory of value that informs neoclassical economics, based on the liberal metaphor of the invisible hand of the market – seems to express facts about an autonomous market but it actually reflects, primarily, the model of value that investors use. In fact, the more the model is deployed, the more the financial world comes to look like the model. Poovey points to the reflexive nature of the relationship between the model and the market, in the sense that the model has an impact on that which it purports to describe. She exposes the effects of what she calls a

⁹³ Bottici (n 5) 108.

⁹⁴ Porter (n 84) 42.

⁹⁵ Mary Poovey, 'On "the Limits to Financialization"' (2015) 5(2) *Dialogues in Human Geography* 220.

metaphor, as a figure of speech to create methodological and theoretical consensus, and the treatment of a mathematical model derived from that metaphor as if it were descriptive, an accurate depiction. A model is informed by the metaphor with an analytic function to simulate real world phenomena, by simplifying complexity and eliminating variables in order to perform experiments. However, treating a model as an actual reflection of what it claims to describe, can actually make the model operative, functional, performative. The discrepancy between the model and the phenomenon widens when it does not correspond to the actual conditions it purports to describe: then, the reality created by the model will eventually collapse, as was the case in the recent financial crisis.

Annelise Riles' ethnography of legal experts in the financial markets, on the other hand, begins with the view that to claim that financial knowledge is performative and not merely descriptive of markets is far too obvious a remark and she questions who actually believes that economic knowledge is merely descriptive and not constitutive in this way. Riles observes the financial market of derivatives trading from the perspective of the collaterals (as documents rather than norms) and their interactions with legal experts (rather than mathematicians). Rather than a conflict between knowledge and reality, Riles focuses on the incongruence between disparate forms of expertise, namely that produced by the mathematicians and computer experts in contrast with the legal experts. This anthropological approach is particularly useful for undoing the long-standing critique of legal fictions as reflecting/engendering neutral beliefs and for foregrounding their technological effects in an explicit politics of finance, as opposed to a hidden politics masked by epistemological practice.⁹⁶

Although I am precisely problematising the passage from scientific fictions to facts, I am not concluding that the danger of such constructed factuality is that it might muster support, feed beliefs and, thus, naturalise distorted realities. Again, assumptions about a 'real reality' are beyond my remit. I am rather pointing to a legal operation through which fictions become facts, which evokes the move through which a legal problem is articulated and thus through which law appears as an emergent effect. From this perspective, social quantifications have a creative function. They create entities and transform the world that it intends to describe. Quantifications not only capture and portray realities, but effectively create reality.⁹⁷ Quantified poverty is an artifice and – without going into the merits of its

⁹⁶ Annelise Riles, 'Collateral Expertise: Legal Knowledge in the Global Financial Markets' (2010) 51(6) *Current Anthropology* 795.

⁹⁷ Porter (n 84).

authenticity, veracity or reliability – it materialises poverty as a thing in the world. In that regard, I refer to qualification meaning that quantified data become the measure against which perception of poverty occurs, activating a binary code to ascribe that which is seen and that which is not, that which will be acknowledged by law and that which will be deemed an error of calculation. Errors are discarded.

The statistical entity of poverty has also been reformulated throughout history, and it is in its variability that the mechanism of its transfiguration into a qualification of poverty becomes evident. I sought to illustrate this point in chapter 2. Early social surveys and the reforms of the poor relief systems continually reshaped the figure of the vagrant, the vagabond, the beggar. Scientific criminology created the ideal types of the criminal; International development law has created multiple suffering, passive and pity-worthy characters in its short history: the refugee, the destitute, the illiterate, the starving, the unbanked... all unified in the marker of global poverty. In each of these exemplary imaginal models, legal operations and frameworks are actively participating in the materialisation of 'figures' by framing, selecting, filtering people with a sieve provided by quantifying practices, whilst simultaneously reshaping the filter itself.⁹⁸ The point is that the mathematization of social life does not merely structure interactions of society with the material world, but it also contributes to the production of different kinds of social order.⁹⁹ The claim here again is that scientific knowledge has historically conditioned the ways of seeing poverty as a social phenomenon/problem which is materialised in the world in the image of its statistical composition.

The point here, to restate, evokes the passage from epistemology to ontology – that is, that quantification leads to the qualification of populations and territories, by raising quantified elements to the level of *a priori* characteristics to be later detected and inferred in the material world. In circumscribing poverty in the world, quantifying and establishing a parameter for its identification and for the subsequent classification of populations and territories within these conceptual frameworks is an *a priori* conceptual formulation. Traits that are quantified (because they are deemed quantifiable) become the qualitative traces of poverty, the inherent attributes that characterise poverty, regardless of other unquantified (or unquantifiable) traits. Afterwards, the extracted mathematical formula of poverty (e.g. the calculations of household income) become the filter through which

⁹⁸ Other 'driving forces' were also mentioned as active in such formations, such as literary arts, medical disciplines, financial institutions, corporate foundations and mass media.

⁹⁹ Faro de Castro (n 90) 3.

poverty is recognised in the world and intervened in (with the poverty line). To put it bluntly, that which social sciences objectify and quantify, codified law applies and enforces in order to qualify (to categorize and frame) populations and territories. Description is turned into prescription. This is how poverty becomes real, an existing thing in the world: an existing entity appears from a statistical category.

Law and legal operations are an important moving force of this reality and fact producing transfiguration, of which Vismann writes, 'law designs its own truth of reality'. By creating a legally acceptable reality, law can also erase unwanted realities. Bottici's imaginal, the creation of images, makes something new in the world by presenting what is absent and with the power to lie and deny existence to other facts.¹⁰⁰ Legal scholarship has invested in understanding the mechanisms through which fiction is transformed into reality. At a broader level, as has been covered in chapter 1, Emily Grabham shows how the quantification of time into a linear temporality lead to qualification, i.e. the regulation of legal time.¹⁰¹ Also, Sarah Keenan examines how the Torrens system established the self-actualising legal fiction of land title registration as representations of future values, which are treated as present facts that enable trade. Moreover, the functional effect of title registration has also worked to categorise and manage populations and territories, producing social categories materialised as raciality.¹⁰² In view of this, I claim that a legal-aesthetic machinery modulates populations and territories, turning the fictional images of poverty into real and material entities. It has been established that law acts on images. This means that rather than evidence of external facts, images and legal instantiations 'partake the same reality' and 'construct the world we live in'.¹⁰³ As Riles puts it, 'A fiction is rather a technique, more like a machine than a story, a tool for practical intervention'.¹⁰⁴ Through a material approach inspired by Vismann, we see a clear need to unravel the historical construction of the functional 'file-world' of poverty and the ontological assumptions of the data-driven world of our times in order to critique poverty's conceptualisations and imageries as a matter of fact.

These points are relevant when we are referring to posited law (poor Laws, criminal law, social security law, international development law, property law...) as well as in terms of

¹⁰⁰ Bottici (n 5).

¹⁰¹ Emily Grabham, *Brewing Legal Times: Things, Form, and the Enactment of Law* (University of Toronto Press 2016).

¹⁰² Sarah Keenan, 'Smoke, Curtains and Mirrors: The Production of Race Through Time and Title Registration' (2017) 28(1) *Law and Critique* 87

¹⁰³ Manderson (n 65) 4.

¹⁰⁴ Riles (n 96) 802.

broader, open-ended, normative enunciations or structures of governance (which evoke the practices of public agencies, international foundations and scientific institutions). The next chapter is dedicated to a more grounded analysis of these formations based on the contemporary workings of the 'industry of global poverty reduction'. The aim is to verify, on the one hand, this role of law and, on the other hand, its productive effects on the concrete world.

CHAPTER 4

The visual economy of global poverty: data as a legal technology

Where does the dream of a world free of poverty come from?¹ The previous chapters showed how poverty reduction became a global project in the recent history of ‘capitalistic’ poverty, a project to be led by multilateral financial institutions, by means of the infrastructures of international law and following a development motive (a rights-based and pro-poor development agenda) towards global prosperity based on technical expertise. A true industry of global poverty alleviation is formed in the collaborative practices of knowledge, law and intervention. It is an industry in the sense of being a sector that capitalises around the idea of non-profit aid, fundraising and donations; which relies on chains of specialist organisations, experts, intellectuals, professionals, fieldworkers and indeed workers of all kinds; and which produces outcomes that circulate in a global marketplace of corporate philanthropy. It is a self-generated industry, which creates its own objects of intervention and the conditions for its own global expansion. Arundhati Roy writes about a global corporate governance that emerges from private foundations and financial institutions, as unaccountable entities which design policies, promote the rule of law and demand accountability from poor countries.² They also govern by funding nongovernmental organisations, think tanks, universities, independent researchers, artists, activists and students, who are the mediators and practitioners that keep the industry together and operating in its mundaneness. Like capital, philanthropy has recently shifted from a mercantilist and industrial basis and has increasingly become a corporation-based financial activity, penetrating into unnoticed dimensions of everyday life and aggregated into indeterminate connections to the ‘seed funding’ of multi-donor trust funds – to use the field’s parlance.

Critical scholars of international development law focus on the interference of institutions such as the World Bank – but also the International Monetary Fund, the World Trade Organization, the United Nations and its many agencies, as well as a multitude of international organisations and groups which form the ‘international community’ – in the

¹ ‘Our Dream is a World Free of Poverty’ is the slogan that marks the World Bank’s mission statements and which is carved on the walls of the World Bank Group’s Washington headquarters.

² Arundhati Roy, *Capitalism: A Ghost Story* (Verso 2014).

geopolitics of global poverty, the international division of labour and the distribution of global wealth.³ The typical post-developmental approach is to focus on how international law creates problematic infrastructures which mirror or reiterate colonial and imperialist legacies and how institutions work to influence, politically and economically, the global order primarily ensuring the stability of the international banking system. International law is, thus, characterised as part of the problem, not the solution. This critique is extremely important when considering, from a global perspective, the maintenance of neo-colonial arrangements that sustain the predicament of the so-called 'Global South'. However, as I have indicated from the outset, my aim in this thesis has been oriented towards the mundane practices that manufacture grand ideas, organise the world and work at producing actually existing entities. From this perspective, the critique that I raise in this chapter concerns the visual economy of global poverty. In regard to the international development frameworks, I foreground a sort of aesthetic interventionism resulting from the conceptual determination of poverty. Ultimately, as outlined in chapter 2, this approach frames the changing modes of seeing and acting upon poverty by observing the transformations in social research and the corresponding methodologies for regulating, monitoring and fighting poverty which, in turn, transfigure the very images and profiles of poverty in the concrete world.

I have mentioned that since its post-war creation, the World Bank has assumed a hegemony of global poverty monitoring and of funding poverty alleviation initiatives. The overwhelming dominance is such that the production of knowledge about poverty, the methodologies of quantification of poverty, the data sources for poverty research worldwide, the formulation of responses to the problem of poverty in the world, the institutional arrangements for fighting poverty and the social policies implemented in the world's most remote locations... all this comes from a monopoly of poverty held by a financial institution, 'the Bank'. Has the World Bank historically influenced the institutional structures of entire countries with its loans? Absolutely, and authors such as Ananya Roy often describe the destructive impacts of the infamous Structural Adjustments upon

³ Notably in this thesis, central references are Sundhya Pahuja, 'Global Poverty and the Politics of Good Intentions' in Ruth Buchanan and Peer Zumbansen (eds), *Law in Transition: Human Rights, Development and Transitional Justice* (Hart 2014); Ananya Roy, *Poverty Capital: Microfinance and the Making of Development* (Taylor & Francis 2010); and Alvaro Santos, 'The World Bank's Uses of the "Rule of Law" Promise in Economic Development' in David M Trubek and Alvaro Santos (eds), *The New Law and Economic Development: A Critical Appraisal* (Cambridge University Press 2006). See also: Michael Goldman, *Imperial Nature: The World Bank and Struggles for Social Justice in an Age of Globalization* (Yale University Press 2005).

nations.⁴ Likewise, documents from WikiLeaks reveal how multilateral financial institutions effectively served as ‘unconventional weapons’ within a global financial warfare.⁵ However, the extent to which the World Bank’s prerogative of definition has re-structured the world’s ways of seeing poverty remains blurred. As a ‘knowledge bank’,⁶ its investment in the production of knowledge and data is intense, including investing in the direct training of intellectuals, experts, NGOs, research institutions and universities. Today, the World Bank maintains a vast network of high-productivity researchers who publish reports and case studies from around the world – many of which operate under the caveat of not representing the Bank’s official position. Despite this dominance of information about poverty that it generates, there are several studies that point to the lack of clarity or to methodological problems in the World Bank’s studies, as well as to the role these shortcomings play in legitimising the Bank itself as a world authority in poverty knowledge, by obliterating alternative approaches, and as a promoter of a naturalised, standardised and calculable notion of poverty – that is of poverty as a matter of fact.⁷

At the same time, the millennial turn has seemingly produced new conditions to this conceptual and practical primacy, in what Ananya Roy calls the democratisation of development.⁸ Ever more organisations, foundations and financial institutions take the stage leading diverse strategies to ‘empower the poor’, to equip them with the tools to escape their own fate. In a confluence of ‘ages’ – of globalisation, of finance and of the mainstreaming of human rights – microfinance emerges as one such widespread and widely accepted poverty alleviation tools. The industry of global poverty reduction has been integrated into the global financial market, or, more candidly, it has opened new frontiers for finance capital, i.e., the subprime frontier. As a result, constellations of local and global market practices are integrated – from the world’s largest investment funds to the most trivial acts of ‘ethical consumption’ in local coffeeshops – to save the poor.⁹ Furthermore, the ‘audit culture’ of corporate social responsibility standards, as identified by Sally Engle Merry, is increasingly expanding the production of indicators across sectors

⁴ Roy (n 3).

⁵ Whitney Webb, ‘Leaked Wikileaks Doc Reveals US Military Use of IMF, World Bank as ‘Unconventional’ Weapons’ *MintPress News* (Minneapolis, 7 February 2019).

⁶ Teresa Kramarz and Bessma Momani, ‘The World Bank as Knowledge Bank: Analyzing the Limits of a Legitimate Global Knowledge Actor’ (2013) 30(4) *Review of Policy Research* 409.

⁷ Kramarz and Momani (n 6). See also: Diane Stone, ‘The “Knowledge Bank” and the Global Development Network’ (2003) 9(1) *Global Governance* 43; Asunción Lera St Clair, ‘Global Poverty: The Co-Production of Knowledge and Politics’ (2006) 6(1) *Global Social Policy* 57; Lant Pritchett, ‘Who is Not Poor? Dreaming of a World Truly Free of Poverty’ (2006) 21(1) *The World Bank Research Observer* 1.

⁸ Roy (n 3).

⁹ Clive Barnett et al, ‘The Political Ethics of Consumerism’ (2005) 15(2) *Consumer Policy Review* 45.

and indeed reaching into global governance.¹⁰ This 'turn to indicators' forms part of new modes of knowledge production in which standardised metrics and 'translocal' aggregated information are made monitorable and accountable in what has been termed as 'venture philanthropy'.¹¹ As Roy puts it, poverty knowledge goes hand in hand with poverty capital: 'It is here that a metrics of risk assessment and management is forged; it is here that the poor are classified and categorized; and it is here that more generally the business of poverty comes to be "financialized," or transformed into a set of financial benchmarks and indicators'.¹² Needless to say, although new actors have entered the business of saving the poor, the World Bank and IMF have been leading the way for a long time, preparing the environment for financial services to the poor in all corners of the world.¹³ More recently, as presented in chapter 2, such experienced institutions have taken up the mission of facilitating crowd-sourced finance and multi-donor trust funds with reduced risk to the private sector seeking to exercise (and capitalise on) social responsibility.

The discussion in the previous chapters suggests how conceptualisations and corresponding imageries of poverty have ambiguous connections – both cause and effect – to strategies of intervention. If we take social policies as responses to dominant legally-formed imageries and conceptualisations, we can look at a particular society at any given time and extract from its relevant policy the corresponding standards of acceptability and, therefore, its predominant images of what poverty is and what it would involve to measure and eliminate it, provided that a general interest in such a project was in place. However, the point that this chapter aims to pick up and develop is that poverty definition is itself part of poverty production. That is to say, that new conceptual formulations are continually raised to the level of *a priori* characteristics to be later detected and inferred in the world, and then acted upon. To prefigure the argument, this *a priori* instantiation is to be viewed as generated by what I earlier called the sampling function performed by law. That being the case, the question of 'fixing the problem' and mustering interest or support for such a project, loses its significance. It is precisely that attempt to forge a project that creates poverty as we know it in the first place.

¹⁰ Sally Engle Merry, 'Measuring the World: Indicators, Human Rights, and Global Governance' (2011) 52(3) *Current Anthropology* 83.

¹¹ See Peter Frumkin, 'Inside venture philanthropy' (2003) 40(4) *Society* 7.

¹² Roy (n 3).

¹³ Philip Mader, *The Political Economy of Microfinance: Financializing Poverty* (Palgrave Macmillan 2015).

It is not particularly innovative to sustain that concepts are not discoveries but indeed creations.¹⁴ Yet, there is something about the metrics of poverty that is specifically – though disguisedly – creative. The formulation of what, who and where is ‘the poor’ is a construction that precedes its material fulfilment, although it is methodologically expressed as a diagnosis. In other words, the method which at a first glance appears to be an empirical induction, turns out to be a deduction. In circumscribing poverty in the world, the quantification and the establishment of parameters for its identification and for the subsequent classification of populations and territories according to these conceptual frameworks turns out to be (to rely on) an *a priori* conceptual formulation; impelled by preceding intervention methods, as indicated in chapter 2, the procedures of poverty definition are inseparable from the procedures of its remediation. As a result, the responses to ‘fight poverty’ are formulated externally and irrespectively to what specific diagnoses may point to. Subsequently, poverty data produces effects – as a technologically functioning device – feeding the crisis-reaction discourse that calls for urgent action. The argument being put forward here is that the descriptiveness of quantitative poverty data is also aesthetic in its own methodological approaches, which work to validate the very mechanisms of intervention that created them, as in a self-referential mechanism. Just as photography has been widely used to validate eugenicist and bio-anthropological criminology as well as pathologizing and criminalising policies, so statistics have created narratives and imageries that attest to the selected features and traits prioritised in different historical times and places towards practical intervention. These definitions, in turn, produce further material changes – the vagrant, the criminal, the insalubrious slum, the dangerous black ghetto, to name a few such imaginal materialisations revisited in chapter 2 – by feeding new understandings and new strategies of action. As a machinery that keeps rolling and reproducing itself – the same old ‘satanic mill’ spinning its wheel¹⁵ – the circuits of knowledge and of intervention feed each other in a circular manner. Here lies the legal-aesthetics of poverty.

In chapter 5 I shall address this connection between the conceptual determinations of poverty and their concrete effects on lives in poverty, from the point of view of the legal-aesthetic modulations that organise territories and populations, soil and bodies. I make

¹⁴ Creations with very concrete effects, I must add, just like other concepts in the natural and social sciences which are at the same time a discovery and an invention, as unravelled in Michel Foucault, *The Order of Things* (Vintage Books 1994). Again, in saying this, my purpose is not to discredit science as empty constructions but to signal its deductive formulations and material consequences.

¹⁵ Karl Polanyi, *The Great Transformation: The Political and Economic Origins of our Time* (first published 1944, Beacon Press 2001).

reference to more concrete and contextual aspects that can work to conceal this interplay between conceptualisation and actual manifestation. For now, I would like to dedicate this chapter to a reflection about the legal connections between data and image in order to set out how poverty is first defined, circumscribed and created as a visual fact, then materialised in the concrete world via modulations. In other words, the aim is to examine how poverty data and its strategies of presentation can be construed as fostering a visual economy of poverty that later takes shape in the concrete world.¹⁶

4.1 The ‘facts’ of poverty data: the intervenable form of poverty

To claim that law is imaginal, as Desmond Manderson borrows the term from Chiara Bottici, is to say that it operates through images ‘to communicate ideas and norms, to frame experiences, to constitute relations, to generate the emotions that construct the world we live in’.¹⁷ But as has been discussed in chapter 3, image is not merely representational, as in evidence or depiction of social realities. It is a form that indeed accompanies law’s codifications – that is both cause and effect. As image, data about the social world plays a central role in prescribing the imagistic compositions that are then handled as ‘facts’. As an example, which has been raised earlier, crime data is collected, organised and composed by law enforcement and victimisation surveys and feed back into the institutional responses of criminal courts. Of course, this is a formalist, positivist presupposition of how institutions operate and in diverse settings and historical contexts this presupposition does not apply at all. However, holding on to such a formalist, institutional reading of the interactions of law and data for argument’s sake – or better said, considering that the positivist treatment of law as a legitimate system is particularly imaginal, for its use of an image of the exemplary law from which legitimate authority emanates¹⁸ – it is in the imaginal realm that data feeds law. Which is to say, data composition paints a picture and law acts on it. In other words, it is with certain images in mind (of the poor) that rights and obligations are instituted and legal institutions operate.

¹⁶ According to Richard Sherwin, law establishes a visual economy, an embodied way of seeing that ‘constitutes the reality in which we live’ where the things that appear are properly administered. Richard K Sherwin, ‘What Authorizes the Image? The Visual Economy of Post-Secular Jurisprudence’ in Desmond Manderson (ed) *Law and the Visual: Representations, Technologies, and Critique* (University of Toronto Press 2018) 333.

¹⁷ Desmond Manderson, ‘Imaginal Law’ in Desmond Manderson (ed), *Law and the Visual: Representations, Technologies, and Critique* (University of Toronto Press 2018) 4.

¹⁸ Chiara Bottici, *Imaginal Politics: Images Beyond Imagination and the Imaginary* (Columbia University Press 2019) 102 and 165.

The ambivalent power of Bottici's imaginal – both a means of critique and of oppression – determines an overarching incapacity to question what is given through the production of images. It is here that a visual economy can be grasped as underlying the ways of seeing poverty in the world today, including in terms of its territorial distribution and populational arrangements. The World Bank's global governance, its technical-administrative politics, produces conclusive figures and profiles. It is indeed an imaginal governance, the power of which emerges from paperwork – its accumulation of endless, large-scale records forming the material basis of its ways to determine poverty.¹⁹ When the most valued or uncontested source of data about global poverty today prescribes what, where, how and who are the poor, this is undisputedly the basic composition to frame and process local populations and territories. This will particularly be the case if that expert authority in poverty knowledge happens to also be the financial institution which will fund developmental initiatives to tackle the now demarcated reality of poverty, as post-development scholars typically criticise. Data is thus instantly received as a matter of fact, as a representation of real things in the world. In chapter 3, I sought to unravel the complex knot which connects reality and representation. I argued that poverty data is rather creative of realities – more precisely, that quantifications are turned into qualitative designations (images) which, in turn, create new things in the world as social problems. After having seen in chapter 2 how poverty knowledge has become, through legally-forged images, such a productive field of research in the twentieth century, it becomes clearer that the gesture of definition is, first, inconsistent, experimental and tentative; second, it is selective, leaving behind unprioritized variables.

Certainly, data stands on its own and should be taken seriously. The critique developed in this thesis is not to be received as any sort of parallel to science denialism. The critique is definitely not an attempt to expose poverty research as misleading or deceitful. It is simply an assessment of the legal interactions between data and image, pointing towards legal-aesthetic effects which are often overlooked by methodology designs concerned with scientific abstraction. Are selectiveness, variations and revisions of methods preventable? Certainly not within the framework of modern social sciences. In that framework, data is

¹⁹ Latour writes about the power that emerges from paperwork – from the accumulation of endless records arrayed in cascades – and how from inscriptions and their immutable mobilisation are raised the material basis that forms macro-actors, or large-scale entities that dominate the scene. It is in this sense, as I have mentioned before, in this research I am not considering institutional interest and ideology in the creation of data, but actually that the power to create data makes the institutional power. Bruno Latour, 'Visualisation and Cognition: Thinking with Eyes and Hands' in Henrika Kuklick and Elizabeth Long (ed), *Knowledge and Society Studies in the Sociology of Culture Past and Present*, vol 6 (Jai Press 1986).

simply the result of social-scientific rites and conventions which create instrumental approximations and estimations so as to turn the social world into an object of scientific inquiry and intervention. Data create very important readings of the world and translate into resources for policy-making – with typical guidelines for research-policy relations requiring evidence-based, effective change and pathways to impact.²⁰ However, from the perspective of law – and this thesis reports on a legal research project – data has a very particular role as a legal technique. In other fields, data may assume other roles and potential. Within law, data is a technique, a tool that produces things in the world. Therefore, the constructivist approach I may seem to imply here is limited to reflections about the legal field, rather than an absolute phenomenological approach to data, knowledge and truth.

To reiterate it schematically, science produces a frame of quantification; law turns the frame into a qualitative template, a model to give unity and shape to amorphous populations and territories so that they more accurately resemble the image of poverty that science and policy supposedly can fix. The material conditions of life need to fit into the model to be intervened upon and to be fixed. In this argument, I am building from the specific legal moment discussed in chapter 3, in which law is presented to the eyes as something that exists because it functions as an operative technology and produces effects in the world. This legal moment occurs when quantitative indicators are turned into qualifications of poverty and, as such, activate the circuit of interventions against poverty. Here is how the legal-aesthetic frame of analysis that I follow might suggest a particular reading of these operations:

First, as has been established already, data provides the aesthetic content of poverty and law materialises poverty as a social problem in the concrete world. Law, here, provides a bridge to this materialisation, enabling interventions against poverty to be designed and implemented. The claim here is that law does this by reading data as fact. From this delimited perspective, data occupies the position of a constructed and productive device that is not ontologically independent from the conceptual and perceptual scheme that generated it – just like images are not visual evidence, representations of external facts or legal events, ‘they are objects that partake of the same reality’.²¹ But when, for example, institutions respond to data by taking action – what is termed as informing policy with

²⁰ See, for example, in Christina Boswell and Katherine Smith, ‘Rethinking Policy “Impact”: Four Models of Research-Policy Relations’ (2017) 3(44) Palgrave Communications 1.

²¹ Manderson (n 17) 4.

research findings – they do so because of a way of seeing poverty data that becomes a way of seeing poverty in its own right. Again, when the World Bank determines poverty measurement methodologies and the policy designs to tackle it, it is also creating the problem it is setting out to fix, by creating the lenses through which poverty will be seen in the world. If poverty is eventually no longer to be circumscribed by income, and it is rather to be identified via purchase power, for example, the materiality that reveals purchase power will again be sensed through aesthetic criteria of data processing (e.g. asset holdings, ownership of electronic devices in a household).²² Indeed, numbers do not speak for themselves,²³ and here lies my argument that poverty definition is part of poverty production: the methods designed to investigate social phenomena co-produce the world. In other words, methods used in social sciences assume a model of linear reality that imposes temporal ontologies²⁴ as well as spatial configurations.²⁵ I claim that it is law that turns data into fact, in the passage from knowledge to intervention, by assuming the legal-technological point of view which I discussed in chapter 3.

Second, ‘law’ is itself made in the process of turning data into factuality, and poverty into a fact to be seen within a visual economy. Whilst this is done (legally done) by the gesture of formalisation – that is, by the assimilation of populations and territories into the ‘proper’, intervenable form of poverty – an effect of this gesture is the shaping of law into recognisable codes, legislations, institutions, procedures, architectures, iconology, traditions, rites, doctrines, jurisdictions, precedents, jurisprudence... the list goes on. Each of the epochal thrusts of poverty administration reviewed in chapter 2 demonstrate this double formation. The assistance provided to the poor formalises those who are poor and those who are not with the status of fact. To put it another way, in order to access aid, one needs to conform to the reigning profile of ‘the poor’ in vogue. The same occurs within the punitivist spectrum: to be found poor is to be found bearing the markers of poverty, such as race and its correlate propensity to criminality. To be ascribed the marker ‘poor’ is to be formalised as ‘poor’ – quite literally to be assimilated into a *form*.

²² To exemplify what such an analysis entails, see: Yating Li et al, ‘Household Appliance Ownership and Income Inequality: Evidence from Micro Data in China’ (2019) 56 China Economic Review.

²³ Theodore Porter, *Trust in Numbers* (Princeton University Press 1995).

²⁴ I have mentioned before how modern law sets a linear temporality, with Emily Grabham, *Brewing Legal Times: Things, Form, and the Enactment of Law* (University of Toronto Press 2016).

²⁵ Similarly, law establishes ordered and readable spatialities, as can be found in Andrea Mubi Brighenti, ‘Lines, Barred Lines. Movement, Territory and the Law’ (2010) 6(3) International Journal of Law in Context 217.

Within modern liberal law, described in chapter 1 as premised on proprietary regimes of individual and exclusive ownership, a very peculiar legal technique is articulated in the formalisation of poverty and in the resulting emergence of law as a given: rights. In one gesture of the technical-analytical gaze, populations are turned into property-less citizens in a rights-based nation-state, territories are turned into zoned spaces of governance within the rule of law. To have access to rights, one needs, first, to become poor, to be formalised as poor – the proper poor, the known and intervenable poor. The transition into the form of poverty is led and measured by the marker (and language) of access to rights, for which further formalisation is increasingly required. Under that token, law is not construed as merely punishing the poor, or disciplining the poor for the sake of an arbitrary exercise of power. Law is the resulting articulation of mundane objects and practices that pertain to the circuits of knowledge and of intervention. My claim is that the integrated practices of knowledge and intervention are also, from this particular viewpoint, legal practices. This is why I indicated that the governance to which the world's poor are subjected is more usefully construed as technologies rather than manifestations of power.

As such, law is not something that pre-exists the ways it is made, something external to the knowledge practice, only to validate the resulting data, images and/or facts of poverty as the abovementioned positivist narrative frames it. Both law and poverty are instead emergent effects that appear out of these practices. As such, the issue should not be reduced either to norms or to institutions falling into the assumption that we already know what we mean by 'law'. The task is rather to unravel the media-technological aspects that tie together seemingly different histories of formation. What does this mode of conceptualising poverty data and image say about law? If law is not a pre-existing structure, then it is itself a 'centre of calculation' that builds itself in the making. The modes of poverty administration that I presented in chapter 2 do not precede those institutions that receive and respond to the poverty data originating from science – be it from social surveys, from scientific racism or from global poverty indicators. Law, as a centre of calculation, is itself formed alongside the production of other visualisation practices. This position entails a rejection, with Latour once again, of the 'the idea that the stuff society is made of is somehow different from that of our sciences, our images, and our information'.²⁶ As Latour puts it:

²⁶ Latour (n 19) 30, fn 17.

There is not a history of engineers, then a history of capitalists, then one of scientists, then one of mathematicians, then one of economists. Rather, there is a single history of these centers of calculation. It is not only because they look exclusively at maps, account books, drawings, legal texts and files, that cartographers, merchants, engineers, jurists and civil servants get the edge on all the others. It is because all these inscriptions can be superimposed, reshuffled, recombined, and summarized, and that totally new phenomena emerge, hidden from the other people from whom all these inscriptions have been exacted.

More precisely we should be able to explain, with the concept and empirical knowledge of these centers of calculation, how insignificant people working only with papers and signs become the most powerful of all. Papers and signs are incredibly weak and fragile. This is why explaining anything with them seemed so ludicrous at first. [...] This is precisely the paradox. By working on papers alone, on fragile inscriptions which are immensely less than the things from which they are extracted, it is still possible to dominate all things, and all people. What is insignificant for all other cultures becomes the most significant, the only significant aspect of reality.²⁷

As a centre of calculation, law emerges to the eyes as a repository of legal instruments, i.e., the media and the techniques by which a specifically 'legal' problem of poverty is articulated and responded to. Law appears *a posteriori*, when an act or event is qualified as legal and ascribed legal effect.²⁸ Furthermore, it is through this legal formation that poverty becomes an ontological 'fact', as I have termed it, and the quantification of poverty through statistics becomes the qualification of populations and territories. The factuality of poverty is thus legally constructed and materialised. Other collateral manifestations deemed external to such a poverty model will be deemed non-legal, with the effect of being disregarded, denied existence or potentially eliminated. It is at this point that law appears in the posited shape of international development law, and the other models examined in chapter 2.

For analytical purposes – that is, to be able to analyse the connections within such a multitude of practices, events and circumstances whose interactions can be overlooked as being seemingly unrelated to one another – I visualise all these occurrences as integrating (co-producing) broader 'circuits', removed from the constraints of time and space. In other words, I conceive of them as part of a comprehensive whole: the interconnected circuits of knowledge and intervention which form together the industry of global poverty reduction. By 'circuits' I refer to the mode of functioning of open-ended itineraries in which parts

²⁷ Latour (n 19) 30.

²⁸ Alain Pottage, 'The Materiality of What?' (2012) 39(1) *Journal of Law and Society* 177.

combine and work together as pieces of a machinery, or indeed conductors in a circuit, as direct routes of determination or indirect routes of influence, with logs of data-generating practices and practice-oriented techniques. As mentioned before, I draw on Ananya Roy's use of the metaphor of circuits for her own methods of tracing 'poverty capital', which she adapted from global commodity chain analysis.²⁹ Roy maps the centralities and multiplicities of the millennial development goals, guided by multi-sited yet context-based configurations to situate the circuits that generate capital and truths about poverty eradication, namely: the Washington Consensus, the Bangladeshi model of microfinance, and the post-9/11 imperial frontier in the Middle East.

In contrast, the approach that I follow is not situated in the particular or focused on contextual perspectives of a global vision of the problem of poverty. Instead, I have sought to be attentive to both global and local distributions – indeed, to global-local circuits of knowledge and intervention – simultaneously assembling context-specific, international and cross-cultural practices that might be traditional, instant or conjunctural as well as long-standing and epoch-making.³⁰ Rather than determined by a dominant rationality, or superstructures, or imperial politics, the functioning of such circuits are here construed as the contingent results of situated exchanges, constrained negotiations, policed struggles and problem-solving techniques.³¹ For the scope of the analysis that I develop in this thesis, it would be insufficient to frame these circuits as concentric, originating in a multilateral development agency – say, in the World Bank – and descending all the way outwards to the local practices of a funded ethnographer doing fieldwork in a remote village in the so-called 'Global South'. Yet, the metaphor of circuits is useful precisely because it allows an analysis of diverse practices as simultaneously being part of different, polycentric chains, which include being construed as incidentally, or momentarily, connected to conductors belonging to other kinds of circuits (e.g. circuits of capital and of debt).

The circuit of knowledge – or that which I have referred to as science, poverty knowledge, research or expertise – produces data to understand the problem that poverty represents.

²⁹ Roy (n 3).

³⁰ Inspired by the methods applied and discussed by Irus Braverman although, again, I depart from ethnographic approaches and prioritise my own experiences as a participant of the circuits, i.e. as a socio-legal practice researcher who interacts in/with territories of poverty and violence.

Irus Braverman, 'Who's Afraid of Methodology? Advocating a Methodological Turn in Legal Geography' in Irus Braverman, Nicholas Blomley, David Delaney, Alexandre (Sandy) Kedar (eds), *The Expanding Spaces of Law: A Timely Legal Geography* (Stanford University Press 2014).

³¹ A perspective aligned with that which is also laid out in David Garland, 'Punishment and Welfare Revisited' (2019) 21(3) *Punishment & Society* 267.

It is formed by the technical-scientific practices that design and apply methods of apprehending and measuring 'the social' into readable phenomena, or rather into problems to be solved. It also forms networks and institutions, métiers, scholarships, agendas, projects, frameworks, guidance, principles... an actual 'epistemic community'.³² Quantification, we have seen, is the proper moment of a pragmatic emphasis on knowledge production, one oriented towards taking action. The expansion of indicators, technologies of audit and performance evaluation, as analysed by Sally Engle Merry, are a significant part of this circuit, gathering public, private, international and local practices of self-monitoring, the outcomes of which are presented as 'forms of knowledge rather than as particular representations of a methodology and particular political decisions about what to measure and what to call it'.³³ On the other hand, the circuit of intervention – the politics of poverty in terms of policy, aid, philanthropy, charity, social projects, as well as community-based self-organised initiatives – produces strategic action to remedy the problem of poverty. This circuit includes, but is not restricted to, institutional responses to the social problem of poverty and development projects, which form networks of funders, consultants, experts, policy-makers, governments, multilateral agencies, civil society organisations, social services, plans, contracts, cooperations, loans, reforms... The circuit is also formed by activists and social movements as well as individual initiatives which, for example, join a loose network of those who contribute to charity or, why not, privately donate pocket money to beggars.

As a result of this adopted perspective, and as I have mentioned, my main concern is not the accuracy of the streams and flows that I found within the circuits that I have observed, or their causal links, or indeed the precision of their cascaded influences. I am, rather, interested in what unnoticed associations could reveal about how poverty knowledge, antipoverty law and interventions against poverty operate together. By looking at law – at legal techniques and practices at work rather than exclusively codified antipoverty legislation – in a mediating position within a broader picture of poverty production, I emphasise the ways in which a mediator enables transmissions to function within circuits. Thus, what is the role played by law as an active mediator in between the circuits of knowledge practices and intervention practices? In a nutshell, it is that of sacralising procedures, stabilising interactions, ontologising abstractions in a visual economy. It is also a role of securing the flows between the circuits for their own reproduction. We have seen

³² Richard Rottenburg, *Far-Fetched Facts: A Parable of Development Aid* (MIT Press 2009).

³³ Merry (n 10) 88.

in the narrated history in chapter 2 that, even before the global governance of financial institutions had coalesced into a recognisable *métier*, the interactions of science and politics dedicated to poverty has already been at play and, indeed, stably mediated by law. I shall now turn to the current developmental trends of poverty in terms of its financialization in order to examine the rights-based approach as agitating sampling techniques for its continual refinement, by means of legal-aesthetic modulations.

4.2 The financial imageries of poverty

Up until now, I referred to the imagistic feature of poverty data without specifying what it is about data that makes it image-like, or why it is that I am correlating data and image. For sure, data bears form and content, and one needs only to glance at the growing field of data visualisation to understand how it offers more than techniques of illustration or presentation, and is rather increasingly dominated by philosophical scholarships that explore the visibility of data. Data, under this philosophical exploration, *is* image, i.e. information in visual graphic form. But there is more to it, particularly to the role of poverty data in the contemporary global networks, in which the industry of poverty reduction articulates intricate and overwhelming amounts of specialist information. Firstly, I have presented images in chapter 2 that illustrate the ways in which data generate images: in the drawings of an investigative journalist who is trendily immersed in the fascinating hype of documenting the living conditions of the poor as seen by the nonpoor; maps of the city that transmit scientific scrutiny to locate and classify the poor; mugshots of criminal subjects to be filed in records as evidence of criminality; infographics that contrapose common beliefs about the living conditions of the racialised poor; measures of human bodies to sustain a bio-anthropological foundation to social research and to support correlations of physical, racial and behavioural traits; and numerical tables displaying a growing mathematical approach to poverty, collecting indicators of its dimensions and distributions and complex graphs of aggregate data which enable further scrutiny. Moreover, poverty data is often accompanied by photographic images that convey an impression – typically mobilising pity, guilt and benevolence. One needs only a bus or tube ride in London today to be taken aback by the amount of charity adverts calling for donations. These adverts present the face of the poor, usually innocent-looking and tragically helpless children. Also, global poverty reports present colourful and hopeful photographic images of the poor who have purportedly benefited from aid.

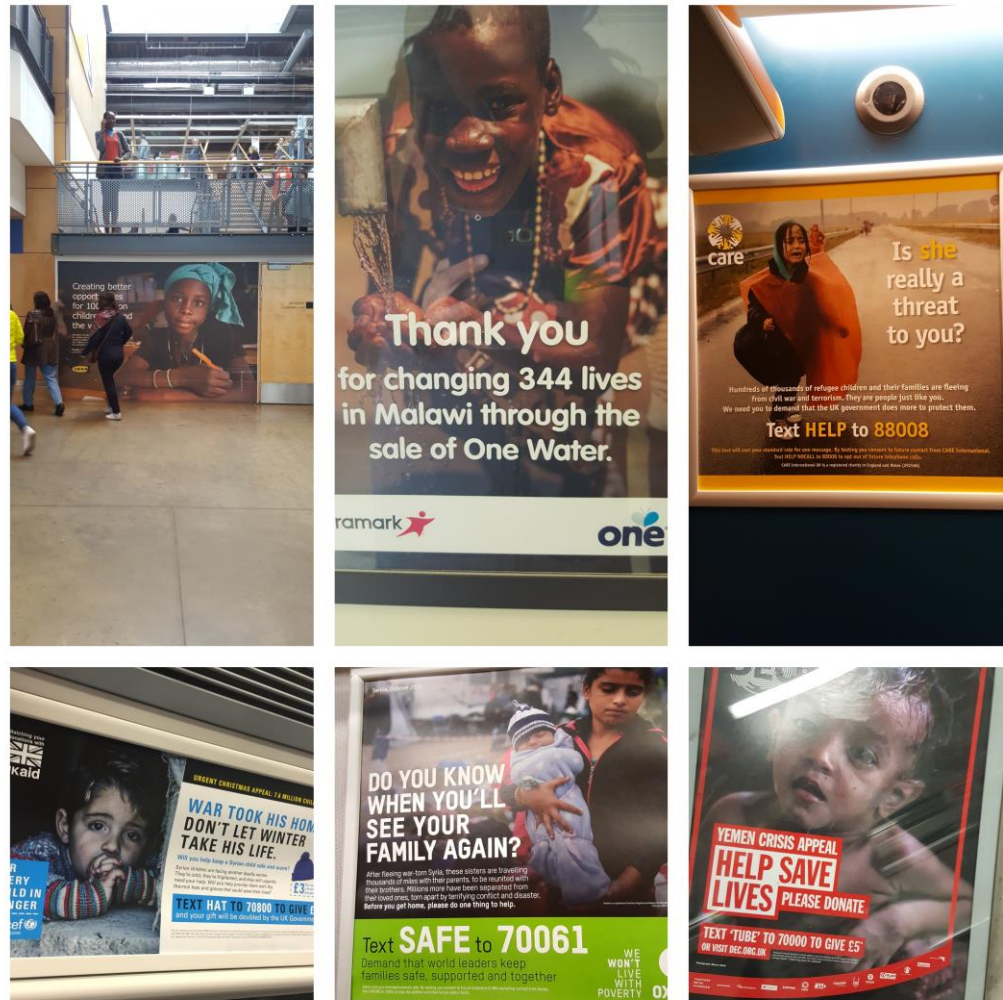


Figure 11: Charity posters in London's public spaces (2017).³⁴

Second, and more in tune with the argument in chapter 3, poverty data also evokes imaginal components of poverty, i.e., it conveys descriptive elements to be put together in a collage that shapes 'the poor'. This collage, nonetheless, is not always forcefully disseminated but instead leads to convenient images, at the individual or social level, conscious or unconscious, in Bottici's flexible employment of these terms.³⁵ I have mentioned the connection between sensory perception and knowledge dating back to ancient philosophy. By the twenty-first century, it could be said, the industry of poverty reduction has skilfully intensified this connection to an extent that data – which was supposed to reflect scientifically and empirically obtained information – is fittingly located in the domain of behavioural marketing strategies. Hence the aforementioned conceptual and aesthetic interventionism. This element of marketing has been duly exacerbated in

³⁴ Figure 11 attribution: collage, created by author, of charity posters in London public spaces taken throughout 2017.

³⁵ Bottici (n 18) 63-66.

recent years, effectively pervading consumer relations in terms of new notions of ethical, green, fair-trade consumerism as well as corporate social responsibility.³⁶ The industry's images thus enter the realm of affects and mobilise what will be discussed in the next chapter in terms of Luc Boltanski's 'politics of pity' and Sundhya Pahuja's 'politics of good intentions' in which – to allude to a central inspiration to this thesis, the manifesto *The Aesthetics of Hunger* by the Brazilian filmmaker Glauber Rocha – the observer 'cultivates a taste for that misery, not as a tragic symptom, but merely as a formal data within his field of interest'.³⁷

Yet, even in its purest scientific motive, poverty research provides descriptive data which paints a picture, or composes a collage. What would the presently predominant collage look like? The post-development and financialization literature with which I engage in this thesis describes the targeted poor as, first and foremost, the 'unbanked', the bottom segments, the poorest of the poor who have not yet been incorporated into formal economic, welfare and labour relations. The objective is to turn them into the 'banked' – here is the renewed assimilation into a form of the proper, intervenable poor that I have been referring to as formalisation. Thus, the first step has been to advocate financial inclusion with the primordial articulation of credit as a basic human right.³⁸ Ananya Roy analyses this so-called microfinance revolution and its role in shaping a global capital of poverty, i.e. a model of capital expansion in which the hitherto unbanked are increasingly included in financial markets.³⁹ The new image of the 'banked' is painted as a growing group of self-made, self-employed, entrepreneurial subjects who only need an opportunity to flourish and escape poverty on their own. It is a financial consumer rather than a development client, who is empowered to be economically active, despite being engaged in strict regimes of debt and discipline. As a result, the images of the poor under this

³⁶ Merry (n 10).

³⁷ Glauber Rocha, 'The Aesthetics of Hunger and The Aesthetics of Dreaming' Manifestos from 1965 and 1971, translated and posted by Documenta14 (*Documenta14* 2007).

See also Luc Boltanski, *Distant Suffering: Morality, Media and Politics* (Cambridge University Press 2009); Pahuja (n 3)

³⁸ As famously advocated by Muhammad Yunus, the Nobel prize-winning founder and CEO of the Grameen bank, who implemented the first successful model of microfinance in Bangladesh, which was then exported widely to the rest of the world. See: Randeep Ramesh, 'Credit is a Basic Human Right' *The Guardian* (London, 5 January 2007).

The exercise of which requires investments not only in access to credit, but in preparing the poor to manage their savings through the aid of 'Financial Education and Financial Literacy' as part of 'Human Rights Education'. See for example: Ghirmai Kefela, 'Implications of Financial Literacy in Developing Countries' (2011) 5(9) *African Journal of Business Management* 3699.

³⁹ Roy (n 3).

model are strongly linked what Silvia Federici called the 'debt economy'.⁴⁰ Debt is, thus, ironically turned into a solution to poverty and the hardworking poor will prove themselves through the payback because they are not helpless benefit receivers.

Contrary to typical imaging processes thus far seen in history, the profile of the ideal target of financialization is for the most part an openly and positively gendered and non-white profile. Women far away are projected into the exemplary image⁴¹ of those who, instead of passive victims, can flourish from local resources, use local creativity and even embrace their exotic identity as an opportunity for their businesses to reach global audiences.⁴² The contemporary image of the poor, as such, 'is the Third World woman, Millennial Woman, who animates this millennial ethics, anchors a global conscience, and transforms the distance of gender and race into a liberal intimacy with the world's poor'.⁴³

The problems inherent to this image and mode of operationalisation is well-known when framed in terms of critiques of the neoliberal rationality.⁴⁴ But I would like to, instead, reflect on the effects of such an image on the residual unbanked. Roy observes that, even though microfinance was precisely expanded as a global strategy to reach the segments that remained out of reach to conventional finance, certain groups have still been deemed 'unbankable'. Although 'redlining is the very thing that microfinance set out to mitigate',⁴⁵ it seems that the fencing off of the objectionable poor was renewed once again in history. The residual unbanked are now the unbankable – not the unreached, but the feeble-minded stubborn individuals who fail to succeed when provided the financial opportunities to do so, or who actively prefer informality, probably for contemptible inclinations towards an underground world – again, as has been historically the pattern. Mirroring – or perhaps enduring – historical purges on informality, the steps towards financial inclusion replicate the divisions of the good and the bad poor, the deserving and the undeserving, the duly banked or the obstinate unbanked. The latest version of this dichotomy being the auspicious debtor or the fraudulent credit seeker to be discarded.

⁴⁰ Silvia Federici, 'From Commoning to Debt: Financialization, Microcredit, and the Changing Architecture of Capital Accumulation' (2014) 113(2) *South Atlantic Quarterly* 231.

⁴¹ As in Bottici's exemplary figure, 'the poor' becomes an imaginal being that unifies heterogeneous characters, profiles and terrains, i.e., an exemplary figure formed by data and calculations regarding the final receivers of aid. Bottici (n 18).

⁴² See also Ananya Roy, 'Millennial Woman: The Gender Order of Development' in Sylvia Chant (ed) *The International Handbook of Gender and Poverty* (Edward Elgar 2010).

⁴³ Roy, *Poverty Capital* (n 3) 33.

⁴⁴ See for example, Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (Zone Books 2015).

⁴⁵ Roy (n 3) 54.

The new image of the poor, in the end, confirms Simmel's characterisation of poverty, mentioned in chapter 2, as disconnected from material deprivation and indeed formed in the delivery of assistance. The poor are those who the nonpoor manage to deal with. Those who are beyond reach, relentlessly 'unformalizable' are deemed something else. But as I have anticipated in chapter 1, they are also not 'excluded', left outside from the social. The informal poor are indeed formative of the very need to continually expand, to renew the approach, to reach further, and in an increasingly specialised way. In analysing the circuits of finance, Philip Mader also returns to Simmel to identify a 'true essence of poverty' in social relations, mediated by production and exchanges which confer its 'material symptoms' as the marker of its essence, and which work to obliterate the actual causes of everything that is drawn together in the register of poverty.⁴⁶ Mader argues that microfinance financializes both the concept of and the solution to poverty, that is, poverty is both a problem of finance and the basis for new credit relations and surplus extraction that, in turn, produce further accumulation (and dispossession). By observing the narratives that are mobilised by financial markets to produce the above image composition of the financialized poor, microfinance reveals itself as a way of seeing of the nonpoor who see themselves while helping the poor. Microfinance, as a technical-scientific solution and indeed as a right, makes poverty in the 'Global South' perceptible to the global finance circuits by proposing solutions to poverty in their terms, translating the poor's perceived lack as demands for credit. It is not simply about loans, Mader says, it is about establishing a more direct connection between the very poor and the very rich, to rent out capital, outsource the enterprise of surplus extraction, and circumvent, obliterate and even criminalise informal models of endurance like mutual aid and community-based initiatives.

To restate my point, legal techniques are applied to continually select (to sample and refine) in the material world those who fit the general concept – the proper form of poverty – and to eliminate that which has been left out of the frame. It becomes increasingly unacceptable to see dissenters of this supposedly win-win situation. Law may emerge in the criminalisation of the informal economies of the unbanked (such as informal street trade, irregular labour migration, made-illicit markets and so forth) and in the regulation of the legal category of the entrepreneur or self-employed (differentiated tax regimes, differentiated contracts, differentiated credit and labour relations etc). Regulating how the hitherto informal street vendor can be turned into a microbusiness

⁴⁶ Mader (n 13).

street vendor, to address what was framed as a problem of individual access to finance, involves national legal reforms across the world. As such, this formalisation conveniently contributes to the flexibilisation of labour law across the globe – a collateral benefit, as Pahuja would call it.⁴⁷ Saving the poor is an increasingly private enterprise that constitutes the nonpoor – the benefactors who will receive their investments back, and indeed profit from their goodwill.

The newly banked thus become the globally quantifiable and intervenable poor, further supporting mechanisms of data collection and aid provision. Yet, the dividing gaze does not merely affect the subject and the object of sight, the subject and the object of poverty alleviation. It, in fact, institutes a generalised visual economy that affects the everyday life dynamics of entire populations and territories of poverty, regardless of being recipients of microcredit or not. The dividing gaze segregates, or ghettoises. Hence, the visual economy of the financialized international development aid creates poverty as a financial problem and, as a consequence, the normative reality of poverty is shaped as such. As in other epochs, the industry's practices resemble laboratory tests. Intervention models are trialled – based on general deductive reasoning of what the poor need – and research to support them follows, attesting that they are the model of 'what works'. That was the case of microfinance: an initiative was seen as successful in Bangladesh, its pioneer got a Nobel Prize, the initiative was expanded (because 'it worked') into a worldwide experiment to which any scholar in the literature of financialization and post-development refers. As laboratory rats, the poor of the world were banked, houses became assets, local trade became invested businesses, people became entrepreneurs. The tragic failure of microfinance in many countries, which created deep crises, is beyond the point here.⁴⁸ What I wish to emphasise is how the collage above is less of a depiction of the poor than a template to follow, an *a priori* imagery to be later detected in and inferred from the world. Again, other historically and contextually constitutive elements of a life in poverty that eventually do not participate in the poverty-defining repertoire, become invisible. I will now problematise the ways in which we conceptualise that invisibility, as something rendered outside of law, subject to a regime of exception or disciplinary institutions. In fact, rather than exclusion as delineated in chapter 1, informality is much more usefully

⁴⁷ Sundhya Pahuja, 'The Poverty of Development and the Development of Poverty in International Law' in James Crawford and Sarah Nouwen (eds), *Select Proceedings of the European Society of International Law*, vol 3 (Hart Publishing 2012).

⁴⁸ Milford Bateman, *Why Doesn't Microfinance Work? The Destructive Rise of Local Neoliberalism* (Zed Books 2010).

analysed as a constitutive element that enables formalisation in the first place. Hence, I end the chapter by looking into what that which is left out of the picture might tell us about the picture's framing process.

4.3 The missing data and the rights-based approach to poverty

What is not within the frames of the collage described above? Or in Cornelia Vismann's terms, what is left off the records as an unwanted reality? To return to the discussion in chapter 1, where poverty is described through its racialised, spatialised, violent features, it is noteworthy that raciality, displacement and violence are typically absent from the composite image of the poor. By looking into the World Bank's repository of documents, a simple search of key words reveals an immense number of documents from the most varied topics that intersect the theme of poverty.⁴⁹ Out of the most diverse topics, race, violence and spatial conflicts are disconcertingly scarce or absent. On the other hand, gender is a particularly prolific topic – women's empowerment, girl's education, female labour market, women in business, gender issues, gender equality, as well as gender-based violence to name a few recurring terms in reports. While 'gender issues' seem to be a prominent theme, although from a very specific angle of a private, essentialised identity, the invisibility of race in the eyes of the World Bank as a factor of poverty makes it impossible for the industry to understand the racial relations underpinning the distribution of wealth. To be clear, I am here referring to raciality in terms of the inherent constitution of the idea of race as an effect of the production of poverty by the technical-analytical gaze that classifies,⁵⁰ and not as the inherent association of race and poverty which I revisited in chapter 2 and is present in themes of racial inclusion or equality.

Poverty ends up appearing as a natural condition, which occurs by chance or other forms of apolitical determinism. On a global scale, this same racial issue underlies the division of the centre and periphery of capitalism – the 'North' and the 'Global South' – and, by establishing a method of addressing poverty within a financing logic for low- and middle-income countries, the dividing line is preserved. It is this model of defining poverty by a financial warfare that perpetuates poverty, as we know it, in the world. This is the case

⁴⁹ On 18 April 2019, a search with the key word 'poverty' displayed 34,459 'research and publications' documents since 1947. I could also retrieve a set of 23,131 documents under the topic of 'Poverty Reduction'. The 'Documents & Reports' repository is available at: <<http://documents.worldbank.org/>> accessed 28 August 2020.

⁵⁰ As typically stressed by Denise Ferreira da Silva.
See Denise Ferreira da Silva, 'No-Bodies: Law, Raciality and Violence' (2014) 9(1) *Meritum* 132.

even though the international framework refers to a multidimensional notion of poverty, beyond the monetary indicators of household income, savings or other assets. I have mentioned in chapter 2 that a comprehensive understanding of poverty as a living condition – and its corresponding complex indicators – has come to include lack of access to essential goods or services (adequate housing, education, healthcare, food, water and sanitation, decent work and social security). In line with this, and as mentioned above, poverty can also be seen as connected to seemingly stable conditions of disadvantage – such as gender inequality and chronic mental or physical illness or disability – which seem to be seen under the international framework as unfortunate circumstances rather than historically and structurally determined dispossession.

Although attention to these non-monetary dimensions of poverty has raised them to the level of ‘millennial goals’, it is also granted that economic growth is still the core idea of development – with this multidimensional image of poverty being defined as ‘growth plus’.⁵¹ To take the example of gender inequality as an accepted marker of poverty, that is to say, the understanding that poverty disproportionately affects women, this approach means that international initiatives focus on ‘empowering’ women towards financial independence and entrepreneurship, rather than a focus on historical and structural conditions which produce the ‘feminisation of poverty’ that antipoverty interventions construct as a phenomenon of current times.⁵² As a result, the so-called multidimensionality is not, in any way, the intersectionality of which feminist and racial theories speak. It reveals a clear perception of poverty as a conflict-less, stable condition – a naturally occurring attribute. In other words, even if recognised in its gendered and non-white profile, as in Roy’s identification of financialized poverty in the image of the ‘Third World woman’, these are attributes close to physical characteristics (aesthetic features) of the condition of poverty.

Despite the clear moves in international development to de-monetise poverty and recognise its multidimensionality, the poor continue to be presented to the eyes as a context-independent and ahistorical figure. As Sundhya Pahuja remarks, the development framework locates the causes of poverty in ‘local and present causes’, with no reference to historical and global factors such as, respectively, the colonial and imperialist legacies or

⁵¹ Pahuja, ‘Global Poverty and the Politics of Good Intentions’ (n 3) 37.

⁵² Sylvia Chant, ‘The “Feminisation of Poverty” and the “Feminisation” of Anti-Poverty Programmes: Room for Revision?’ (2008) 44(2) *Journal of Development Studies* 165.

the contemporary unfair international trade rules.⁵³ As an effect of this understanding of the causes of poverty, the formats of global poverty interventions are historically based on material supplies to compensate for propertylessness – e.g. food provision, alms, charity, social benefits, development, finance. The typically missing data enables an image of the poor as any other universal subject who, if given the appropriate tools and the adequate mindset, would succeed in escaping poverty. This ascribed imagery – indeed a translation into normative, institutional repertoires – persistently evokes the traditional debate between universalism and relativism in theories of justice which are, nonetheless, oblivious to the diversity of experiences of poverty as an active injustice. In that regard, Bethânia Assy challenges the dichotomous idea of justice that follows from, in the first stance, formal equality and, on the other, identity politics.⁵⁴ Contending the binary of contrafactual inclusion or essentialised identities – and considering how concrete experiences of socioeconomic injustice can unfold into processes of political subjectivation, particularly in cases intersected by issues of gender – Assy demonstrates that while social injustices are inapprehensible by normative structures, class, gender and racial traits are rather inscribed in productive (and insurgent) dynamics of political action, irreducible to identity structures or abstract universality.⁵⁵

The alluded ‘appropriate tools’ to fix global poverty today are, thus, interestingly but unsurprisingly presented on legal terms, in what has been presented in chapter 2 as a rights-based approach to poverty. It is in fact a human rights approach in which, more than a cause or a consequence of human rights violations, poverty is itself a human rights violation – a violation of the contentious ‘right to development’ as well as of socioeconomic rights to which the corresponding duties on states are unclear to say the least.⁵⁶ The human rights approach to poverty entails a recognition of the poor as individual rights-holders and confers obligations to nation-states which, in turn, place a responsibility on the international community that includes the power to intervene in

⁵³ Pahuja (n 3) 37.

⁵⁴ Bethânia A Assy, ‘Subjectivation and Ontology of Political Action in Facing Injustice’ [In Portuguese: ‘Subjetivação e Ontologia da Ação Política diante da Injustiça’] (2016) 7(15) *Direito e Práxis* 777

⁵⁵ Also on this point, considering how political mobilisation in proprietary disputes engender subjects, rights and indeed law, see Carolina Amadeo, ‘Disputare la Proprietà: il Conflitto come Generatore del Diritto’ in AA VV (ed) *Dieci Idee per Ripensare il Capitalismo* (Fondazione Giangiacomo Feltrinelli 2019).

⁵⁶ Krista Nadakavukaren Schefer, ‘Poverty, Obligation, and the International Economic Legal System: What are our Duties to the Global Poor?’ in Krista Nadakavukaren Schefer (ed), *Poverty and the International Economic Legal System: Duties to the World’s Poor* (Cambridge University Press 2013).

humanitarian crises. Yet, rather than global equality, it is sufficiency and minimum provision that are aspired to.⁵⁷

It is unsurprising that rights are offered as the means of solving poverty because, as I have pointed out from the outset of this thesis, poverty is indeed a legal-aesthetic formation before it is formulated as a socioeconomic problem. And indeed, poverty has historically been a legal concern, as I established in chapter 2. However, contrary to the frames of analysis I followed there, the terms by which the concept of poverty encompasses its legal backgrounds in addition to its socioeconomic forms are essentialised – dispossession and its elements of race, gender and spatial distribution become naturalised characteristics. This is an already well-established critique of human rights, in terms of the depoliticization of global struggles.⁵⁸ In the international sphere, this critique also includes the lack of enforceability, accountability and jurisdiction – which Pahuja terms the toothlessness of international law.⁵⁹ However, it is important to be precise in this point to avoid a clumsy contradiction in relation to what has been argued earlier in this chapter. I argued that law emerges in the very moment in which it is put into practice in the passage from data to fact, or from quantification to qualification. But now I am indicating that legal elements are foregrounded, embraced in the very gesture of definition, through the quantification of access to rights (e.g., the human poverty index, the human development index). These are two different registers at play in seemingly the same reference to ‘law’: the practices that enable law to coalesce as a socio-technical form which produces further effects and law as an institutional framework, a repository of pre-existing and self-referential normative techniques. They are different but certainly connected. While I was, in the first moment, concerned with the originating and productive techniques of law, I am now alluding to elements of a critique of capitalistic poverty, one in which such formations are already at play and recognisable as entities. Poverty is already an entity – shaped into an attribute, a state and a condition – and the legal techniques operate as incessant refinements of its sampling functions.

Thus, what is really unsurprising is that rights are evoked in favour of the poor. The logic of ascribing rights to the poor accompanied the history of poverty production and poverty knowledge. Rights are at the core of the mechanisms of the modulation to which I referred

⁵⁷ Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Harvard University Press 2018).

⁵⁸ Costas Douzinas, *The End of Human Rights* (Hart Publishing 2000).

See also: Ozan Kamiloglu, ‘Human Rights from Below: Neutrality, the Subject, and the Revolutionaries’ (PhD Thesis, University of London 2019).

⁵⁹ Pahuja (n 3).

earlier, not essentially in the sense of disciplinary powers, nor as ideological domination. Rights, here, are construed in terms of the typical practices of the industry of global poverty alleviation – the knowledge-law-intervention compound – which, as an effect, transforms the nature of things, the profiles of people and the possibilities of action. I am foregrounding technologies, not power relations. As Bottici writes, the imaginal operates in human rights through the images of rights, of the human and of the rational.⁶⁰ As such, rights act as techniques, as catalysts of change – or as practical devices, ‘tools of technical differentiation’.⁶¹ The right to development, entitlements to social benefits and even the novel sense of a so-called right to credit promote change before the actual receipt of aid, benefits or credit. They promote changes, for example, in establishing criteria of eligibility, by imposing conditionalities, by penalising fraud. By responding to the conceptualisation of poverty as a thing in the world – and as such by coalescing from its own practices – law sets the adequate image of the poor, the model to be aspired to. One needs to comply with the imaginal poverty standards, conform to the prevailing images of poverty, in order to even begin to claim their rights.

It is in the legal realm that poverty can potentially be unmade to dissipate into thin air. However, it is also in the legal realm that poverty is continually reshaped and refined. Historical uprisings against dispossession, racialisation and violence have been incorporated into the very machinery of poverty production in the name of poverty eradication. As such, claims to justice will be made to fit into the very structures erected around law, in terms of access to rights, services and goods. It is through the institutional administration of justice that poverty will be tackled, that is, through a sanitised, and thus essentialised idea of justice, in face of what has been presented in chapter 1, where poverty figured as an active injustice that is reclaimed based on aesthetic terms (its formative configurations, its appearances and disappearances in space and time) beyond material, socioeconomic terms. One needs to be a regular and formal subject of rights to position oneself as a plaintiff. One needs to become poor and to formalise one’s poverty. The move is towards formalisation. The fixing of poverty, its solution according to the current framework of intervention, evokes formalisation, as established in chapter 2.

Formalisation is, indeed, the ultimate legal operation. However, as remarked in chapters 1 and 2, formal/informal are not a dichotomy per se, not a binary opposition in the sense of

⁶⁰ Bottici (n 18) 162.

⁶¹ Oscar Guardiola-Rivera, ‘Human Rights and Latin American Southern Voices’ in Upendra Baxi, Christopher McCrudden and Abdul Paliwala (eds), *Law’s Ethical, Global and Theoretical Contexts: Essays in Honour of William Twining* (Cambridge University Press 2015).

being inside/outside law. They are both 'within', they are both effects of legal practices. Not to idealise informality as a dimension free of violence – quite the contrary it is a dimension to which are relegated the obstinate poor who resist assimilation and are as such subjected to deeper forms of 'precarity' – this operational effect of rights in producing informality, is to be given proper consideration. Informalisation is the necessary countereffect of the requirements of formalisation. The 'formal' poor are contrasting with the 'informal' poor, i.e. those who live by that which has been rendered informal: informal economies, informal housing, informal labour, informal occupation of spaces, and so forth. Although critical legal literature typically focuses on exception, punishment, sovereign power and disciplinary techniques to say that all that stays outside of law is penalised, my point has been that these are constitutive aspects that are inscribed as external. Tactics to expand formalisation by way of rights to reach the 'informal sectors' include, again, changing the frames of poverty to accommodate new bodies and soil – e.g., re-regulating microbusiness tax regimes and flexibilising labour law, as mentioned above. Hence, informality is not challenged by formalisation; it is indeed forced upon populations and territories. From this perspective, the territorial and populational containment of slums that I have been referring to throughout this thesis is not to be construed as circumscribing the incalculable, objectionable poor 'outside' of the city but indeed a 'containment within'. I will take a closer look at this in the next chapter, by reflecting on legal-aesthetic modulations that organise territories and populations.

CHAPTER 5

Territorial and populational modulations of poverty in the city

In this final chapter, I would like to take a different approach. I would like to present some of the concrete effects that can be (though seldom are) connected to what came to be formed as an industry of poverty monitoring and poverty alleviation. In other words, I establish associations between poverty data and poverty modulation – between that which is inscribed and then prescribed by law. I do this by critically analysing how legal techniques modulate the concrete world and feed back into data, thus establishing a flow of mutual and endless socio-technical creation falling upon populations and territories. In other words, while I have so far focused on reframing law as a part of data (and image) production, I will now turn to the ways in which such data (and images) end up being productive of material configurations. This concrete effect is what I previously termed ‘legal-aesthetic modulations’ of populations and territories, which are propelled by images of poverty within the circuits of intervention.

The reflections below are what essentially prompted me to develop this entire research and now it should all come full circle. I present more concrete and grounded elements in rather loose connections and they will remain so in this thesis because, for the kind of research that I have undertaken, the detection of the empirical accuracy and the precise chain of causation implied in said connections are not the main aspiration. I mentioned before that as a critical legal research project – instead of a socio-legal one – I prioritise, in this thesis, the workings of legal techniques of poverty visualisation and their effects of poverty production simultaneously in global and in local settings. In order to now turn to a more contextual analysis, I rely on multiple scholarly and media references which provide the necessary empirical basis to illustrate or validate my point and I also rely on my personal experience as a practitioner in the context that I will describe. That being said, I will start by briefly presenting a concrete (in fact, as tangible as it can be) landscape moved by an incident that occurred in the city I come from. I then move on to a broader examination of this landscape within the context in which it took place in order to return to the perspectivist encounter established by the metaphorical gaze that motivated the research – i.e. that performed by the nonpoor towards to the poor. Here is the incident:

In September 2018, a man was shot at a bus stop in the favela *Chapéu Mangueira* in Rio de Janeiro, Brazil. This man was shot three times by the police unit that monitored the area, a special force with an alleged role of peacekeeping, or more accurately of pacification. This man was a black man holding an umbrella and wearing a baby sling. He was waiting for his wife and children to arrive in the next van, which is one of the informal transport systems in favelas and the city at large. The police allegedly confused the victim's umbrella with a rifle which means that the man was taken to be a criminal to be 'neutralised'. Trying to move beyond the immediate contestation that offenders should not be extra-judicially executed, I would like to reflect on the multiple connections contained in the fact that it is perceived as a criminal behaviour to be a black favela resident and to hold an umbrella at one's local bus stop.¹

This incident – unfortunately neither unusual nor infrequent in Brazil – could be seen as yet another case of police brutality and state violence under the frames of structural racism along with many others that occur all over the world. And, indeed, it is. I do not wish to claim a sort of uniqueness or priority in this event but these are not the aspects that I will draw attention to. Instead, I wish to underline precisely the legal-aesthetic elements contained in this incident, as it encapsulates most of the points that I have raised throughout this thesis. The victim embodied many of the analysed 'markers' of the factuality of poverty, i.e., of the legally-sanctioned and legally-repelled poverty. He was seen as racialised, as a criminal, as a slum dweller, as unbanked, as an informal occupier and as a vagrant in the sense of being badly positioned in the city, loitering at a corner in a favela for no obvious reason. His looks, his colour, his position, his environment, his accessories conveyed all that. It does not matter that the 'material reality' of the objects he carried was different from what the police saw, what counts is what was seen (perceived, apprehended, cognised). His location also betrayed him, because in a favela everyone is already halfway there into the perceptual frame and to fitting the profile – all it takes is a slight indicator that raises a flag. Sometimes it is indeed the objects one carries around (mobile phone², screwdriver³, hydraulic jack⁴, popcorn packet⁵, school bag⁶... the

¹ The man was Rodrigo Alexandre da Silva Serrano, he was 26 years old, married, a father of two small children and worked in a bar in Ipanema. See about his case in an interview with his mother in: Carla Souza, 'Sentenced to Death by Rio Police for Carrying an Umbrella and a Baby Sling' *RioOnWatch* (Rio de Janeiro, 18 September 2019).

² Bruno Inácio and Fernanda Viegas, 'Police Officer Confuses Mobile Phone with Gun and Shoots Young Man in Lagoa' [In Portuguese: 'Policia Confunde Celular com Arma e Mata Rapaz no Bairro Lagoa'] *O Tempo* (Belo Horizonte, 17 May 2017).

list goes on). At other times it is the way one acts, walks, dresses, reacts, exists. Quite accurately, poverty lies in the eyes of the beholder. One is poor for how they are seen, in their location, traits, style, movements, adornments.

With this scene in mind, in this final chapter, I will disentangle some relevant elements out of the incident above in order to situate my overall argument and show how, despite seemingly abstract or disengaged, my analysis is grounded and situated. In trying to articulate the legal aesthetic argument through a material perspective, my endeavour is to unravel the intricate connections of appearance and disappearance that form the machinery of dispossession, which I have interrogated in chapter 1 of this thesis, and the extent to which poverty's interpretation as a legal-aesthetic modulation can contribute to opening up new frontiers of theoretical inquiry about social injustice.

5.1 The governance of appearances and disappearances in the urban landscape

Within the wider context of the War on Drugs in Latin America, Brazil presents local particularities in addition to the principles implanted in the country's criminal system via international intervention.⁷ As a country structurally marked by its colonial history and system of slavery, poverty in Brazil is entangled with clear racial and territorial demarcations. In Rio de Janeiro, the urban distribution of poverty is ordered by unofficial, yet factual segregation – which is to say that Rio is a city marked by geographic divisions between the rich and the poor which generally overlap with a racial divide. The topography of the city is itself part of the segregational setup, a landscape marked by hills where favelas seem to mushroom in the midst of rich and central areas. As largely uncharted territories, favelas are often seen as transient occupations of land, like enclaves interrupting the grids of the 'official city' of Rio. Indeed, a favela is often found entirely

³ Bernardo Tabak, 'Officer of the Military Police's Tactical Unit Mistakes Drill for Gun and Kills Andaraí Resident' [In Portuguese: 'Policia do Bope Confunde Furadeira com Arma e Mata Morador do Andaraí'] *G1, Globo* (Rio de Janeiro, 19 May 2010).

⁴ Rafael Soares, 'Military Police Officer Who Mistook Hydraulic Jack for Machine Gun and Killed Young Men Retrieves Right to Bear Arms' [In Portuguese: 'PM que Confundiu Macaco Hidráulico com Metralhadora e Matou Jovens Volta a Ter Porte de Arma'] *Extra, Globo* (Rio de Janeiro, 12 June 2018).

⁵ Lucas Gayoso, '16-Year-Old Dies after Being Shot at Borel' [In Portuguese: 'Jovem de 16 Anos Morre após Ser Baleado no Borel'] *Extra, Globo* (Rio de Janeiro, 30 June 2016).

⁶ Rafael Soares, 'Military Police Officer Admits He was Confused and Killed Young Man after He Dropped his Backpack in Baixada' [In Portuguese: 'PM Admite que se Confundiu e Matou Jovem após ele Deixar Mochila Cair, na Baixada'] *Extra, Globo* (Rio de Janeiro, 4 January 2018).

⁷ Such institutional interventions have been mentioned in chapter 2 and can be seen in detail in Ted Galen Carpenter, *Bad Neighbor Policy: Washington's Futile War on Drugs in Latin America* (Palgrave Macmillan 2003).

separated, both geographically and aesthetically, from 'the city', crawling up hillsides or peri-urban fringes, while the urban grid spreads within the city's official perimeter. The geographic segregation that seemingly rules the distribution of poverty in the city of Rio de Janeiro thus appears to reveal two superimposed worlds: the world of the official city of Rio and the concealed world of the poor. Notwithstanding its deceptive designation of 'split city' which cast out that which is 'excluded' from the official city, according to the frame of analysis which I have presented in this thesis, this is in fact an urban landscape assertively arranged by a violent spatial condition of injustice, which encompasses the vanishment and invisibilisation of the urban poor, both in time and in space – both in the city's historiography and its geography.

This arrangement is an aesthetic function in the same way as I have established since chapter 1, in that the framings of poverty determine the conditions of its *appearance* in the urban space. In this determination, not only the *presence*, but the very *existence* of the poor can be instantiated, relocated and also revoked. It is a disposition that manages the visibility or invisibility of poverty as well as the selective apparition and disappearance of populations and territories of poverty. I have mentioned that rather than a container of 'natural modes of ordering', the space in this urban landscape must be seen as 'relational, produced through diverse, networked processes'.⁸ That is to say, the violent divisions, segregations and visual economies are effects of the material inscription of immaterial relations, carved into bodies and soil.⁹ Populations and territories of poverty, in this particular context, are continually intervened upon by legal-aesthetic modulations that govern through 'property's logic of severability',¹⁰ which codifies good vs bad poor, favela vs city, criminals vs citizens, among other apparent dualities. But they are also formative of entirely new and creative modes of urban life which, far from evading law, build on various forms of association, regulation and negotiation. In that regard, the legal is also a particular form of urban association in the city space.¹¹ Having adopted, in this thesis, a broad view of law as formed by chains of legal practices and techniques that interweave social and urban configurations, and indeed bind new associations – whether as ordering or as consociations – within the 'city of law',¹² it is interesting to consider how both the

⁸ Nicholas Blomley, 'Cuts, Flows, and the Geographies of Property' (2010) 7(2) *Law, Culture and the Humanities* 204-205.

⁹ Andrea Mubi Brighenti, 'Lines, Barred Lines. Movement, Territory and the Law' (2010) 6(3) *International Journal of Law in Context* 217.

¹⁰ Blomley (n 8) 212.

¹¹ Kirsten Campbell, 'The City of Law' (2013) 9(2) *International Journal of Law in Context* 197.

¹² Campbell (n 11) 192.

legal and the urban are mutually constituted in this concrete landscape of 'favelas' and 'the city'. I would like to highlight the role of poverty data in these associations to argue that, far from excluded, the territorial containment of the urban poor is a fundamental characteristic of the landscape of Rio, a city that is inherently and actively constituted by spatial injustice as part of its very own legal-aesthetic compositionality.

There are multiple layers of aesthetic implications to be explored in face of the concrete setup of favelas in the landscape of Rio de Janeiro. Firstly, there is the very backdrop of an urban design based on territorial segregation within the city. In the case of Rio de Janeiro, the separation of 'the official city' from 'favelas' is aesthetically evident from the outset in terms of architectural styles, hostile urban planning¹³ and different regulations for mobility¹⁴ and social organisation at large. This is an issue vastly explored in literature on urban sociology and critical geography which problematises the assumption that favelas are 'the place of poverty in the city [...] where violence, associated with drug dealing, is present in everyday life'.¹⁵ Not to be misread as spaces without law and state sovereignty, favelas are indeed subjected to differentiated regimes of state power, while also being frequently dominated by concurring powers – circumstances initially described as 'legal pluralism'.¹⁶ The clear territorial divisions endorse recurring incidents of state violence, mass evictions and removals of entire communities, police raids and crossfire, as widely reported in the media.

Another aesthetic layer that can be explored relates to profiles and characters historically formed around the figure of the favela resident (*favelado*). The elements that constitute this identity profiling involve what 'they' do, express, create and consume being stereotyped, reactively rejected and/or criminalised. Popular culture created in favelas can be appreciated 'outside', but it is usually criminalised 'inside' – from samba in early

¹³ As illustrated by the use of 'acoustic barriers' along the motorway out of the international airport that conceals *Maré*, a complex of favelas, from sight. See Donna Bowater, 'Rio's "Wall of Shame" between its Ghettos and Shiny Olympic Image' *The Telegraph* (London, 23 July 2016).

¹⁴ An example: limitations and cuts in bus lines that previously linked poorer areas to touristic areas amount to a restriction of access to 'the official city'. See Aaron Gordon, 'Rio's Olympic Legacy Bus System is Leaving Poor and Working Class Residents Behind' *Vice Sports* (New York, 10 August 2016).

¹⁵ Licia Valladares, 'Social Sciences Representations of Favelas in Rio de Janeiro: A Historical Perspective' LLILAS Visiting Resource Professor Papers (Latin American Network Information Center, University of Texas 2008) 2.

Important names to refer to in this scholarship include: Zuenir Ventura, Alba Zaluar, Luiz Antonio Machado da Silva, Janice Perelman, Luiz Eduardo Soares, Marcos Alvito and Edésio Fernandes, among many others.

¹⁶ Boaventura de Sousa Santos, 'The Law of the Oppressed: The Construction and Reproduction of Legality in Pasargada' (1977) 12(1) *Law & Society Review* 5.

twentieth century to funk today.¹⁷ The flow of cultural exchange can frequently take place in this direction: it is possible to look with fascination ‘from outside’, to explore the vibrancy of favela culture, and even develop tourist activities and ‘safaris’ in favelas¹⁸ – as long as safety measures are provided. The inside-out flow of cultural exchange tends to be more problematic, as in when the poor dare to occupy or simply attend the spaces of the rich; we can see violent reactions to the clash of worlds, for example, in the space of a shopping mall.¹⁹ Although important and prolific it is not with the points of these analyses that I am concerned because, in accordance with the framework that I have established in this thesis, favelas are not the distinctive locus of poverty resulting from environmentally or culturally established determinations, nor are they the unclaimed leftover territories to which the poor are forcibly resettled in their exclusion from the city and thus having constructed identities of marginalisation.²⁰

The layer of aesthetic implications that is indeed interesting here is that of the role of statistics and data in framing a heterogeneous, chaotic phenomenon and determining the conditions of its appearance. Not only the presence, but the very existence of the statistically and cartographically framed entities is at stake. Considering the previously reported dense history of poverty knowledge and interventions upon slums, it might come as a surprise that many maps of the city of Rio (official and unofficial) do not record all of its favelas, or the internal organisation of such areas. Raquel Rolnik argues that exclusions from maps have long proved to be a key element for Rio in securing moral and legal authority for evicting favela residents. Rolnik describes such informal or squatter settlements as marked by a condition of ‘permanent transience’ for the urban poor, which is especially exacerbated under financial and rentier capitalism.²¹ In the global pattern of urban and housing policies fuelled by financialization, Rolnik argues, favelas are spaces marked by complex layers of indeterminacy, zones between legality and illegality, formality and informality, presence and absence – I would add: vitality and lethality. A permanently transient condition means that a piece of land, as a financial asset, is always

¹⁷ Raphael Tsavkko Garcia, ‘Why is there Talk of Banning Funk Music in Brazil? The Persecution of Black Music in Brazil Continues’ *Aljazeera* (Doha, 16 October 2017).

¹⁸ On the controversial and very profitable industry of slum tourism in the global south, see Bianca Freire-Medeiros, ‘Poverty Tourism: From 18th-Century London to 21st-Century Rio de Janeiro’ *LLILAS Benson* (Austin, 24 August 2017).

¹⁹ On what did come to be known as ‘Rolezinho’, see Désirée Poets, ‘Brazil’s Rolezinhos: Shopping Malls as Instruments of Geographic Inclusion’ *RioOnWatch* (Rio de Janeiro, 16 October 2014).

²⁰ These are ‘dogmas’ reproduced by social researchers in favelas and usefully mapped in Valladares (n 15) 17. I have also critiqued the environmental and cultural approaches to poverty in chapter 2 and, as will become clear, this often-unquestioned understanding reproduces a series of implications for the urban poor in Brazil.

²¹ Raquel Rolnik, *Urban Warfare: Housing Under the Empire of Finance* (Verso 2019).

under imminent threat of capture and removal. As a result, at the micro-level of everyday life, there are thousands of people with no home address who do not receive letters, cannot open a bank account, cannot access basic public services or even apply for formal jobs – i.e., the manifestations of informality which antipoverty intervention relentlessly focuses on, as discussed in chapter 4. At a macro-level, these populations and territories literally do not make it onto a map. Indeed, there are inconsistent registers of their presence and of their actual existence in the city's official accounts of itself. These are also the conditions targeted by the industry of global poverty reduction in its agenda of slum upgrading and urban redevelopment mentioned in chapter 2.

At first sight, the absence of favelas from the maps of Rio de Janeiro – whether in terms of their very designation or in terms of the internal mapping of favelas' streets and alleyways – may seem to be in dissonance with the history of capitalist governance, control and discipline that targets the urban poor across the globe. However, considering the fact that favelas are generally subject to ostensive militarised control and securitisation, the absence is not here read as pure and simple omission but indeed as containment, or as Wacquant describes, the 'punitive containment' of the urban poor.²² Thus, the absence is construed as the proper inscription of clear and historical social relations: relations of invisibilisation, or selective visibilisation. The absence is itself (missing) data – information of a historically existent yet censored social dynamic, i.e., the presence of favelas and all the complexities that favelas represent in 'the city'. Registering a community on the map is an all too permanent move for sites of imminent annihilation.²³ As impermanent yet enduring settlements, some favelas have been shaping the landscapes of the city for 100 years. Innumerable others have vanished from the areas they used to occupy with no remaining evidence of their past existence. Within a global 'urban warfare' that transforms urban land and lived territories into financial assets, the forces of finance and security are combined in favelas, forming a deadly machinery of dispossession and disappearance. Yet, just as dispossession is overwritten by developmental urban renovation projects, so are

²² Loïc Wacquant, 'The Militarization of Urban Marginality: Lessons from the Brazilian Metropolis' (2008) 2(1) *International Political Sociology* 56.

While Wacquant focuses on the state action, it is important to indicate that the territorial control of favelas can be held by different spheres of authority, such as drug-related organised crime, the *milícias*, the state police or the Brazilian Armed Forces. More on this to follow.

²³ This permanent sense of imminent removal is clear in the statement: 'when they announced that the Olympic Games would be in Rio, we knew we were in greater trouble. [...] I always knew my home would be removed one day, but this moment was the worst in our struggle' (Maria da Penha, resident of Vila Autódromo). Excerpt transcribed and translated by the author from the broadcast video: Johnny Harris, '2016 Olympics: What Rio Doesn't Want the World to See' *Vox* (Washington DC, 27 June 2016) minutes 5'22" and 7'11".

the brutal effects of the militarised containment of the poor made unnoticeable to ‘the rest of the city’. While within the concrete landscape of favelas what is absent is officialdom or formality, from the official narrative of a map, favelas can be the ones rendered absent. It is a matter of perspective.

Another particular predicament conditioning – and aesthetically configuring – this landscape must be noted. That is the link between urban poverty, raciality and criminality addressed in chapter 2 as historically constructed and confirmed by scientific correlations. In the case of Rio’s favelas, this link is awfully concrete, i.e. openly actualised and enacted by law enforcement and openly reproduced in the media, for whom elements of class and race are central to the distinction between drug users and drug dealers. Furthermore, in many cases, favelas are territorially controlled by so-called organised criminal groups – drug gangs or *milícia* (which can be loosely defined as gangs formed by state agents) – and erratically occupied by security forces, mainly the state Military Police²⁴ or occasionally the national Armed Forces themselves. The result is a widespread warlike setup notoriously characterised by systematic violence. Amidst the crossfires, favela residents are affected as collateral damage. Needless to say, at this point, that this is a highly violent and lethal context: in 2018 there were 1,532 deaths registered as resulting from police interventions in the city of Rio alone; In 2019, this figure increased to 1,810 deaths.²⁵ In Brazil at large, it was 5,804 deaths by the police in 2019 and calculations from 2018 show that an average of 14 people are killed by police officers every day.²⁶ These are the official figures, calculated from the retroactively acknowledged poor who have been ‘neutralised’ by law enforcement agents. Other deaths remain unaccounted for, unacknowledged and unmemorable, as human rights group frequently report.²⁷ Regarding the abovementioned aesthetic role of statistics, one should question what it might mean for public institutions to release such numbers. Despite the disastrous dimensions, these figures of violence add to feelings of fear and are often used to boost the sense of need for more military control of the situation. It is no surprise that the past elections in Brazil have been marked by

²⁴ The Military Police is part of the federated states’ public safety systems, not the national military structure, although they are reserved as ancillary forces of the Brazilian Army and operate by a military internal order and under military laws.

²⁵ As per the database ‘Violence Monitor’ kept by the Center for the Study of Violence of the University of São Paulo, the Brazilian Public Security Forum and the G1 news portal. Available at: <<https://nev.prp.usp.br/en/projects/special-projects/violence-monitor/>> accessed 29 June 2020.

See also: Júlia Dias Carneiro, interview with Ignacio Cano, ‘Violence in Rio: Security Expert Warns of Return to Old Policies of Confrontation’ *RioOnWatch* (Rio de Janeiro, 29 March 2019).

²⁶ Don Phillips, “‘A Devastating Scenario’: Brazil Sets New Record for Homicides at 63,880 Deaths’ *The Guardian* (London, 9 August 2018).

²⁷ Amnesty International, *Brazil: You Killed My Son: Homicides by Military Police in the City of Rio de Janeiro* (Report AMR 19/2068/2015, Amnesty International 2015).

widespread calls for military intervention²⁸ – for a regime that is already in place and, despite the bloodbath, remains invisible for a significant segment of the public.

But let's not be taken in by this narrative. There is no war. These circumstances are about the incessant chasing of an 'internal enemy' with a highly militarised police structure and eventually resorting to the Armed Forces. This is what has been termed the militarisation of favelas, which results, at any rate, in strict regimes of sociability with curfews, frequent prohibitions on gathering and of cultural manifestation and which also affects schools and local businesses. There is indeed a discursive dispute over the very meaning of the deaths and vanishments in this atmosphere, in order to oppose the dismissive indemnification of the violence perpetrated by law enforcement agents which the discourse of war facilitates. This war is rather, as Allen Feldman suggests,²⁹ a regime of truth – processed through as unfortunate accidents, falsified by markers such as 'resisting arrest' or 'threatening a police officer' which means that the neutralised targets will have been considered a part of the organised crime, which then retroactively legitimises their execution. It is not uncommon for families (mothers) to have to come forward and contend that a targeted corpse was not that of a criminal – by showing to cameras the victim's working papers.³⁰ 'Worker' and 'criminal' are here the main normative categories that distinguish the good and the bad poor – again, the formal and the informal poor.

The war on drugs is a relatively recent development, as discussed in chapter 2, and before that there were other legal frameworks for the criminalisation of impoverished and racialised groups in Brazil as well as the territorial containment of favelas – notably gambling but also other Afro-Brazilian cultural expressions such as samba, capoeira and funk have been historically outlawed. This so-called war against the 'internal enemy', which was derived from foreign influence and meshed well with principles of national security in the last military dictatorship of 1964-1988, today facilitates this urban landscape ruled by segregation and the extermination of the urban poor. As a wider order of things, it is relevant to stress that this is not only about the police – and definitely not

²⁸ Marina Lopes, 'In Brazil, Nostalgia Grows for the Dictatorship - Not the Brutality, But the Law and Order' *Washington Post* (Washington DC, 15 March 2018).

²⁹ Allen Feldman, 'War Under Erasure: Contretemps, Disappearance, Anthropophagy, Survivance' (2019) 22(1) *Theory & Event* 175.

³⁰ In the incident described in the beginning of this chapter, Rodrigo Serrano's mother displays his worker ID covered in blood and states: 'I don't want my son's image to be stained. He was not a thief or a drug dealer. He was a worker and had his working papers with him when he was killed.' Statement translated by the author: Marcos Nunes, "'They Executed my Son", says Mother During the Funeral of a Killed Waiter in Chapéu Mangueira' [In Portuguese: "'Executaram meu Filho", diz Mãe, Durante Enterro de Garçon Morto no Chapéu Mangueira'] *O Globo* (Rio de Janeiro, 19 September 2018).

about bad police officers. Other institutions, and particularly the justice system in Brazil, play a part in this fabricated 'internal war' which is connected to the international quest of the War on Drugs. In other words, it is not only the police that easily 'mistake' black men holding their umbrellas at bus stops (or their screwdrivers, mobile phones, school bags...) for likely criminals. The judicial system also acknowledges certain aesthetic symbols as confirmation of culpability, especially when it comes to drug related offences. If we look at the incarceration rates in Brazil – which has the third largest prison population in the world³¹ – we can see that 67.7% are non-white, i.e. black (16.8%), brown [mixed race] (49.8%), indigenous (0.2%) and Asian (0.8%). Over 20% of the total prison population have been detained for drug related offences and within the so-called heinous crimes, drug trafficking amounts to 41.65% of the cases, against 28.74% for homicides. Among women, drug related offences are the overall most common offence, accounting for 50.9% of the cases.³²

Hence in Brazil, this link of poverty, race and crime is widely accepted and enacted by law enforcement agencies and judicial institutions. On one side, the literature on criminalisation of poverty is right to claim that a growing penalisation of the poor is found in the neoliberal thrust of past decades.³³ However, there is another aspect (an aesthetic aspect) that remains overlooked in this discussion. Within an unquestioned understanding of a 'culture of poverty' allied with a sort of environmental determinism, raciality and geolocation can be construed as aesthetic attributes that add up to profiles of the poor. This landscape creates a particular condition for favela residents: not only is poverty criminalised but this very criminalisation ends up forging one-dimensional images of the 'dangerous poor' that will further confirm that favelas are the locus of poverty and crime and, thus, reinforce the need for more police control. And indeed beyond the police, recent findings by Rio's Public Defender's Office confirm this pattern within the judicial system: in criminal cases where the defendant is arrested in a favela or is identified as connected to a favela controlled by drug gangs, that geolocation tends to constitute (in courts practices, not in legislation) an aggravating circumstance of culpability and will likely be the determinant factor for framing the defendant for a supplementary offence termed

³¹Roy Walmsley, 'World Prison Population List - 12th edition', World Prison Brief (ICPR/Birkbeck 2018).

³² According to the 'Infopen' database held by the Brazilian Ministry of Justice, National Penitentiary Department. See in Departamento Penitenciário Nacional (DEPEN), Levantamento Nacional de Informações Penitenciárias – Infopen. Painel Interativo Dezembro/2019 (Ministério da Justiça e Segurança Pública 2020).

³³ This has been addressed in chapter 2 with Wacquant's analysis of the 'neoliberal penalty' that transmutes 'welfare' into 'prisonfare' and with Garland's hybrid concept of 'penal-welfarism'. Loïc Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Duke University Press 2009); David Garland, 'Punishment and Welfare Revisited' (2019) 21(3) *Punishment & Society* 267.

‘association with drug trafficking organisations’.³⁴ It turns out, then, that while the problem of police responses and the institutional culture of violence that they reveal at first seemed to be the extent of the problem, this can instead be seen as part of a wider pattern of differential treatment across the institutions of justice.

Moreover, and in tune with the aesthetic analysis that I propose in this thesis, one’s racial profile or place of residence become incriminating features. A ‘suspect’ is not only selected by racial profiling but also framed a second time based on geographic location, which reveals that which I have termed in chapter 4 how ‘*a priori* characteristics’ are taken into consideration by legal institutions as ‘a matter of fact’: the poor (and criminal) are those that inhabit favelas, a marker of the proper place of poverty and crime. The favela’s geolocation is taken as an objective indicator by the legal system, even though the image of criminality attributed to favelas and their residents has been forged by the operations of this system. This is indeed a clear case of geo-legal technology, as addressed by Iru Braverman: ‘first, law governs through the visibility of physical spaces; then, it uses this same conspicuous visibility to make its own ideological presence invisible.’³⁵ It is important to reiterate that this is generally reproduced in the media, where elements of class, race and territoriality are central to the composition of a headline. This is also the case in the differentiation between drug users and drug dealers: in cases where an individual is caught with drugs, he/she will be framed as a user or a dealer depending not on indicators such as the amounts of illicit substance they carry on them, but on such aesthetic features of poverty. I am calling these elements aesthetic, because it is a sensorial judgement: if the individual is seen as poor then they will be framed accordingly.

The territorial containment of the urban poor is thus a fundamental characteristic of the landscape of Rio. As such, the categories of social exclusion and inclusion are inadequate tools of analysis in a city that is inherently constituted by segregation. Visual practices shape territories of poverty and populations in poverty and thus perpetuate an intrinsic ambiguity between the constructed insides and outsides of society, the included and the excluded, the central and the marginal, the formal and the informal. There is no informality to be fixed when segregation is integral to the urban formation. The

³⁴ Carolina Dzimidas Haber and Natalia Cardoso Amorim Maciel, ‘Judicial Decisions on Drug Trafficking in the City and the Metropolitan Region of Rio de Janeiro’ [in Portuguese: As sentenças Judiciais por Tráfico de Drogas na Cidade e Região Metropolitana do Rio de Janeiro] (2018) (10) Cadernos de Segurança Pública.

³⁵ Iru Braverman, ‘Hidden in Plain View: Legal Geography from a Visual Perspective’ (2010) 7(2) Law, Culture and the Humanities 186.

'disappearance of disappearance'³⁶ puts into question the very existence of such bodies and terrains, manifesting a pattern of invisibilisation which denies not only the presence but the very existence of the urban poor in the city, as has been addressed above. It refers to geo-legal techniques of annihilation, in which populations are simply vanished as if they had never existed – be it in cartographic representation; by removals driven by urban renovation; or by police incursions that result in (legally validated) extrajudicial executions. These techniques are deployed at a global scale and are exacerbated in the case of Rio de Janeiro where local particularities mobilise context-specific visual resources and ways of seeing. In a quite literal way, certain aspects of poverty are made statistically visible, while others are rendered invisible, or selectively visible. What I have sought to stress in this section is how strikingly concrete and material this selective visibility of urban poverty can be. Segregation and modes of appearance/disappearance determine where in the city it is acceptable for one's body to be found as a black, poor and *favelado*. The appearance of such a charged body at a bus stop may well activate the operations of an apparatus of disappearance and instant annihilation.

5.2 Legal-aesthetic modulations of poverty

What happens in the passage from the visualisation practices of previous chapters to these contextual circumstances? I argue that law does. That which we presume to have always been there, the organising principle at the source of the order of things, is rather an emergent effect of legal practices. I argued in chapters 3 and 4 that law cannot be captured as a unified and pre-existing formation, which compiles and encompasses all legal principles, concepts, objects and agents. Instead, law comes to be, it emerges, it appears in the world embodied in normative frameworks, posited directives and prescriptions and, indeed, in institutions with missions and goals. International development law is one such emergent effect. And so are criminal law and the quasi-criminal administrative orders followed by law enforcement agents. Being emergent effects of visualisation practices is, in fact, the only thing that these branches of law have in common and which justifies their placement in the same category as 'law'. As chapter 2 illustrated, there is nothing else, no preceding fundamental commonality, no intrinsic plan, no institutional enterprise, not even a common genealogy.

³⁶ Feldman (n 29).

My claim, then, is that 'law' is what bridges the discussions from the previous chapters in this thesis and the worldly elements of this final chapter. Law enables data and images to be functional and productive of spatial and temporal transformations, which is to say, law activates data and images. In chapter 4 I addressed a preliminary bridging moment where law marks the shift from data to facts. I am now taking a step further in pointing out that this shift also marks the passage from description to prescription, from standards to action, from apprehension and to intervention. In light of this perspective, the violent incident opening this chapter is not so much an extrajudicial execution, something that is outside of law and which corrupts law. Indeed, it can more adequately be construed as law's own doing, the primitive gesture of violence that continually re-inaugurates and re-establishes law. Ultimately, it is the same order of violence, displacement and categorisation described in chapter 1 as the elements of propertylessness, with which this reflection started.

What are the practices behind that intervention (the shooting) that can, in retrospect, be unified as law? How is this concrete setup of spatial injustice in Rio's urban landscape linked to the practices of poverty knowledge and of antipoverty intervention? Although there are multiple contingent factors which could be raised and combined in the attempt to answer these questions – and which would establish a more clear-cut attribution of liability in order to frame the shooting in terms of domination, control, discipline or punishment – I would like to point to the practices and dynamics which mediate the international industry of global poverty reduction and the microcosms of territories of poverty and violence in Brazil. This perspective, in turn, situates the shooting as one of such practices of visualisation which create a phenomenon to look at, to be known and to be acted upon.

There is a multitude of agents, institutions and experiments taking place in this mediation. A constellation of practices forms what is commonly termed 'civil society': practices of NGOs, neighbourhood associations, social movements, collectives, activists, researchers, experts, academics, entrepreneurs, scientific social investigators, fieldworkers and charity aid volunteers. There are also multiple practices recognised as 'the State' operating in (or upon) that microcosm of the favela: public offices, official bodies, representatives, social workers, healthcare agents, public defenders, police officers and the military. And there are also countless private sector practices by: entrepreneurs, foundations, philanthropists, commerce and so forth. Through funding schemes, international organisations and

corporations are also present and operating in favelas. Public and private funds sustain both public and private ventures, either separately or in partnership.³⁷ These seemingly disconnected practices and entities are here construed as the material infrastructures of the making of poverty in Rio – the making of favelas as territories of poverty and of violence simultaneously. Through them, favelas become an entity which transcends their local arrangements and spatial contiguity, i.e. a statistical entity with concrete effects.³⁸

We can see how these infrastructures operate by tracing my interactions as a practitioner. From the point of view of a practitioner in the field (a socio-legal professional of practice research, as I established was my position), the way the industry works is through such funding schemes. Applying for funds is a big portion of the craft of a practice researcher. The funders establish the kind of initiatives they will be willing to fund, frequently by setting out restrictions as to themes, scopes, nature of activities, desired outcome, and adequate categories of expenditure. These restrictions and criteria are based, in theory, on reliable knowledge of best practices, subject to audit requirements to generate evidence of achievements, in terms of outcomes, outputs, deliverables and impact factors.

In addressing the failures of the international ‘dream’ of ending global poverty despite the growing infrastructures and financial resources that have been raised around it in the past 60 years, Sundhya Pahuja remarks that the project of development itself has not been discredited.³⁹ In fact, Pahuja remarks that its reliance on indicators continues to increase and to intensify the overall trust in development as the solution to poverty. Namely, indicators of success and of impact, are increasingly mustered to demonstrate the efficacy of development in a way that is counterintuitive in face of poverty's global growth. In chapter 4, I mentioned what Sally Engle Merry described as a corporate culture of audit

³⁷ On public-private partnerships in favelas see Alexandre Fabiano Mendes, ‘Between Shocks and Finance: “Pacification” and the “Integration” of the Favela into the City in Rio de Janeiro’ [in Portuguese: ‘Entre Choques e Finanças: a “Pacificação” e a “Integração” da Favela à Cidade no Rio de Janeiro’] (2014) 18(31) *O Social em Questão* 237.

Also in: Livia de Cássia Godoi Moraes, ‘Investment Funds in the UPPs: The Financial Speculation of Misery’ Margó Hufstetler tr *RioOnWatch* (Rio de Janeiro, 15 December 2013).

³⁸ The ethnographer Eugênia Motta explains how, from a technical-analytical point of view, the disorderliness of favelas can figure as a resisting factor against quantification, as a challenge for both cartography and household censuses. It is because of such a challenge that favelas came to be officially defined as ‘subnormal agglomerates’ in 1950. Motta explains how this classification situates the favela as an entity and, thus, how statistical scrutiny defined that entity as a problem. Eugênia Motta, ‘Resisting Numbers: The Favela as an (Un)Quantifiable Reality’ [in Portuguese: *Resistência aos Números: a Favela como Realidade (In)Quantificável*] (2019) 25(1) *Mana* 72.

³⁹ Sundhya Pahuja, ‘The Poverty of Development and the Development of Poverty in International Law’ in James Crawford and Sarah Nouwen (eds), *Select Proceedings of the European Society of International Law*, vol 3 (Hart Publishing 2012).

that is being employed to quantify social responsibility and human rights compliance.⁴⁰ In her ethnography of indicators, Merry also addresses how statistical measures have transformed the work of civil society organisations by establishing international standards and technologies of audit that promote ‘evidence-based funding’ and ‘business-based means of accounting for productivity and accomplishments’. This, in turn, leads to chains of delegation, in which techniques of performance recording are passed on along the funding stream all the way to grassroots community groups in remote territories of poverty. In my own experience as a participant in the circuits of poverty knowledge and intervention, I observed how this is highly onerous on grassroots community organisations which work towards poverty reduction and which struggle for material resources themselves, frequently relying on precarious labour to carry on. In order to comply with these demands and to record successful performance, organisations often allocate a great deal of their resources to producing attractive indicators, to adjusting their projects to invest in activities that can produce quantifiable impact and outcomes, and to designing methodologies able to produce positive feedback and markers of accomplishments. They might also attempt to be creative in restructuring (or simply rewording) their work in order to fit the remits of international expectations and demands for indicators which, in turn, will confirm the appropriateness of such expectations and indicators in an endless cycle of new and more precise technologies of audit.

The presence of the police and of the military in favelas is also premised on indicators and ‘creative’ alternatives against undesired records. Indicators of police lethality are a typically unstable record in the history of Rio, conditioned to intermittent control mechanisms and reward systems for police officers meeting targets of crime reduction.⁴¹ A community organisation in a favela in Rio de Janeiro which deals with the interfaces of

⁴⁰ Sally Engle Merry, ‘Measuring the World: Indicators, Human Rights, and Global Governance’ (2011) 52(3) *Current Anthropology* 83.

⁴¹ For example, the System of Goals and Results Tracking, a programme instituted in 2009 to monitor crime statistics by setting crime reduction targets and providing monetary rewards to officers whose districts meet those targets. See César Muñoz Acebes, “‘Good Cops Are Afraid’ The Toll of Unchecked Police Violence in Rio de Janeiro” *Human Rights Watch* (New York 2016).

Recently, in September 2019, the ‘death resulting from police intervention’ has been suspended as an indicator to be accounted for in the reward system. See Carolina Heringer et al, ‘Witzel Changes Targeting System that Encouraged Reduction of Deaths in Confrontation with the Police’ [In portuguese: ‘Witzel Muda Sistema de Metas que Estimulava Redução de Mortes em Confronto com a Polícia’] *O Globo* (Rio de Janeiro, 24 September 2019).

Before that, in the 1990s, a reward system of a ‘bravery bonus’ to police officers who killed the most was trialled and resulted in a drastic increase in police lethality at the time. An overview of institutional changes and the culture of police rewards based on crime rate can be found in Beatriz Magaloni, Edgar Franco and Vanessa Melo, ‘Killing in the Slums: An Impact Evaluation of Police Reform in Rio de Janeiro’ (2015) Center for International Development Working Paper n556 .

poverty and violence will need to structure their project proposals into the framework of a rights-based approach to poverty and to work towards increasing access to rights – producing evidence of their achievements, of course. How derisive is it that organisations that have been created to combat the historical scene of police violence, will need to work with the police, to treat the incidents of such violence in terms of drawing the population closer to the police institution, supposedly peacemakers, framing incidents of violence in terms of corruption of the institutional culture – in other words, to blame it on local inability to comply with global standards of good governance. We have seen in chapter 2 how this frame of knowing ‘underdevelopment’ works to continually reinforce the frame’s own expansion, by calling for more international law, more state-building interventions, more institutions, rights and enforcements.⁴²

The conflicting yet constitutive relationship between favela and ‘the’ city seem to mirror the modernization project of the development agenda applied at a global scale, dividing north and south, the developed and the under developed world. The divide calls for integration of the poor into modernity, by aiding them to renounce their backwardness. This apparent ‘mirroring’ could be assumed to be due to the fact that the practices that make up the international and the local arrangements are the same, i.e., they are part of the same circuit of intervention which operate towards assimilation, integration, formalisation. Of course, the ‘problem’ of favelas (if we take the statistical category of ‘subnormal agglomerates’ as the problem’s inaugural milestone in the 1950s along with the upsurge in scientific interest in favelas reflected in the drastic increase of scholarly studies and publications since then⁴³) coincides with the global development agenda (in the 1960s but expanded globally until the 1990s) when new favelas proliferated and were gradually recognised in a context of marked increase in poverty rates in the 1980s and 1990s. Thus, it is a rather inaccurate simplification to consider a causal link between the global dictates and the local mishaps. Both the global and the local form part of the same circuit on interventions and their practices of integration can also be found in a much earlier project, that of colonisation, in a more direct instance, and indeed that of the capitalist mode of knowing and seeing as I have established in this thesis.

Against this background, the shooting which opens this chapter is here construed as another practice within the circuits of poverty knowledge and of interventions against

⁴² A point made in line with Sundhya Pahuja, ‘Global Poverty and the Politics of Good Intentions’ in Ruth Buchanan and Peer Zumbansen (eds), *Law in Transition: Human Rights, Development and Transitional Justice* (Hart 2014).

⁴³ Valladares (n 15).

poverty. It is not external to the circuits, or an exception to their functioning. But it is also not simply punitive or disciplinary of the bad poor. As I will now further explain, it is another mundane visualisation practice that works towards modulation, like many other unrelated practices of populational and territorial modulation such as banking, social housing and monetary aid. Again, although I am not suggesting a direct line of causality or reliance between such practices, the international development frameworks and standards described above are contained in that violent gesture. The gesture is included in, rather than alien to, the circuits of their operations. This could be phrased quite simplistically as follows: what the 'Global North' determines, the 'Global South' executes – and literally, as an extrajudicial execution. But more productively, I have sought to articulate on a grounded basis the argument laid out in the preceding chapters, thus establishing a link between (a) the previously addressed practices of visualisation that create poverty in the world, and (b) what I have called 'legal-aesthetic modulations' of populations and territories of poverty. Furthermore, I have argued that law forms this link while also forming itself, in the sense that law results from its own operation.

From this perspective, there is no miscommunication, no accident, no corruption of law in that shooting. It is not a primitive gesture from an uncivilised institution that failed to follow the modern liberal state handbook.⁴⁴ It is also not an act of abuse of authority from a 'bad cop'. It is certainly not what it is officially claimed to be: a mistake. In light of the discussions of this thesis, that gesture is in fact the basis of modern law, a continual reiteration of the violence and spatial injustice described in chapter 1 and which enables the very practices of knowing and visualising poverty in the first place. To that effect, the militarised control of favelas described above is here associated with the industry of global poverty reduction solely in terms of how it works to modulate populations and territories of poverty so that they correspond to images of poverty that the international development agenda has formed and expects to find in the empirical world. Before exposing the effects of interventions which objectively force reforms upon poor countries – via legal mechanisms of conditionalities attached to loans, structural adjustments and enforceable recommendations to borrowing countries – it is also relevant to unravel such legal-aesthetic modulations which determine the conditions of poverty's appearance in the urban landscape in the first place. It is this earlier stage that promotes conformation,

⁴⁴ I have addressed in chapter 2 how the notion of 'state failure' has historically justified transnational state-building interventions. See Jonathan Di John, 'Conceptualising the Causes and Consequences of Failed States: A Critical Review of the Literature' (2008) Crisis States Research Centre Working Paper 25: Development as State-Making.

whereby poverty in Brazil can correspond to the international prescriptions so that it can be intervened upon. It is, thus, a moment of homogenisation, i.e. it manufactures the uniform, homogeneous poor that can be fixed (allegedly) by the development agenda: the passive and grateful receiver of aid willing to follow the script and flourish as an agent of its own salvation out of poverty. As such, militarisation admits no cultural manifestation (the poor of the world are not culturally distinct), no acceptable informality (informal economy, informal housing and settlement), no desires (curfew, strict rules of circulation, and even dress codes to stay out of trouble) and certainly no political engagement (community organisations and activists are often persecuted). No standing at a corner with an umbrella (or screwdriver, school bag...), no being black, no being a favela resident, no existing.

Now, to be clear of my intentions, I do not raise this point in order to address the reification of the poor, the object of observation, and how this reification enters the processes of subjectivation and/or of othering. Instead, I point to what I think are more productive questions concerning the observer itself, that is, the spectator, the nonpoor who direct their gaze towards the poor. First, what motivates this gaze? I started the thesis pointing towards affects of hostility, fascination, fear and hatred towards the poor. Second, what are the effects of such a gaze? I am now addressing the effects of intervention, which in turn, suggest that the observer is the 'problem fixer' who will fix the problem created by its own gaze. To accidentalise the incident of the shooting as a confusion (a racially biased misperception at any rate) or to call it a corruption of democratic institutions (as in a failure of the modernising pathway in the 'Global South') ends up overlooking a more intrinsic motif that this shooting signals and conforms to: a sort of nostalgia for primitivism.⁴⁵ This nostalgia can be construed as a fundamental element shaping the interventions of what has been called the industry of poverty alleviation. I will end with this reflection.

⁴⁵ This is an insight presented in the manifesto *The Aesthetics of Hunger* by the Brazilian filmmaker Glauber Rocha, who criticises the 'exoticism that vulgarizes social problems' as the only mode of artistic expression that resonates well with European audiences. Rocha is well aware that this is not a predicament exclusive to cinema (the 'third world cinema'), but rather that exists in any formulation in other political spheres where the coloniser-observer 'cultivates a taste for that misery, not as a tragic symptom, but merely as a formal data within his field of interest'.

See in Glauber Rocha, 'The Aesthetics of Hunger and The Aesthetics of Dreaming' Manifestos from 1965 and 1971, translated and posted by Documenta14 (*Documenta14* 2007).

5.3 Nostalgia for primitivism

Taking a moment to focus on the observer is particularly important if we consider, as Sundhya Pahuja indicates, how in the context of international law, 'Interventions directed at bringing about 'development' are assessed primarily by reference to the intentions of the 'developer', rather than the effect of those actions on the 'developing'.'⁴⁶ As she writes, efforts concentrate on the intentions, not the deeds of development interventions. In fact, the accountability of the industry is directed to the donors. This is due to the way in which poverty knowledge is structured and validated (around development and from the perspective of the nonpoor) and to the legal application of technical knowledge (e.g., confirming a right to develop the poor world), of which I also spoke in chapter 4. This is what Pahuja termed 'the politics of good intentions' in international development law, which is to say, despite the goodwill of its agents, 'international institutional attempts to address poverty (re)iterated in the idiom of development are likely to make the problem worse, rather than better'.⁴⁷ Development's framework allows the self-interested behaviour to be understood as altruism. Yet, while this way of working is often connected to the colonial and imperialist origins of international law, in this thesis I sought to look at a particular aesthetic dimension in the compassionate actions directed at the poor, that is, the perspectivist encounter connecting the subject and the object of observation and intervention.

With the insights of Luc Boltanski, we can also understand how the politics of pity is aesthetically played out in the diverse media representing suffering (such as novels, pamphlets, paintings), which leads the spectator towards critique. In contrast to political denunciation of the evil-doer which evokes indignation, and to philanthropy as an expression of sympathy towards the benefactor, Boltanski's aesthetic critique leads to a sublimation that distances the spectators from the actuality of suffering towards a reflexive contemplation of the conditions of human misery.⁴⁸ Likewise, Lilie Chouliaraki draws on Boltanski's work to analyse the spectator's attitude towards the distant sufferer, in the case of media culture and particularly journalistic television. She refers to the aesthetic quality of technological mediation, which stages the public spectacle of suffering and which reveals affective regimes of pity that engage the spectator to respond in certain

⁴⁶ Pahuja (n 42) 46.

⁴⁷ Pahuja (n 42).

⁴⁸ Luc Boltanski, *Distant Suffering: Morality, Media and Politics* (Cambridge University Press 2009).

ways. Pity, in turn, is analysed as a shaped emotion of modern humanism, a socially constructed disposition to feelings of concern for the 'other' that also reveals a narcissistic inclination toward the suffering of those like 'us'. In view of this, global news on suffering cultivates a cosmopolitan identity for the spectator and 'shape global viewing relationships in terms of the political classifications of 'us' and 'them'".⁴⁹

While Boltanski aims at a moral theory of action and Chouliaraki pushes a shift towards an analytics of mediation in terms of its ethics of public action – which are not what my work concerns – their works usefully scrutinise images of suffering beyond representation and, indeed, as media technologies (i.e. as media which, in turn, produce effects) connecting the western spectator and the distant sufferer. In other words, they refocus the gaze that I explored while situating this thesis in the field of 'law and aesthetics'. I mentioned in chapter 3 that critical scholars valuably analyse how the gaze implicates a process of constituting the self in the light of alterity, rather than mere knowledge production about others as it would generally be understood. My proposition in this thesis, in contrast, has been to interrogate how the technical-analytic gaze affects the very populations and territories it visualises. Ultimately, I am concerned with the moment in which the mirrored constitution of subjectivities strikes back (once again) at those 'others' with brutal consequences.⁵⁰

To summarise and clarify: I have insisted throughout this thesis that the object 'poverty' is only a unified image by the operations of practices of visualisation, that heterogeneous populations and territories are essentialised as one all-encompassing category of 'the poor' – for, let's call it, pragmatic reasons of science *and* technology – and made into an observable, monitorable, manageable and ultimately governable phenomenon. I did not insist on this to now end the thesis with a reference to a unified version of a subject. Both the subject and the object of the technical-analytical gaze are unstable positions. That's all they are: positions in a sensorial relationship, perspectives, rather than identities. It is not about a characteristic or an attitude, although these perspectives do materialise into aesthetic features down the line, as previously discussed. Like poverty (the object) and like law (the mediation of the gaze, the techniques which produce further effects), the nonpoor (the subject) emerges as a momentarily unified entity as it occupies the position of the spectator, the observer. The subject is that which occupies the vanishing point,

⁴⁹ Lilie Chouliaraki, *The Spectatorship of Suffering* (Sage 2006) 61.

⁵⁰ A proposition inspired by Du Bois' 'double consciousness' and Fanon's 'black consciousness under a white gaze', aiming at the subsequent reactions on the part of the observer yet again. WEB Du Bois, *The Souls of Black Folk* (Penguin 1996); Frantz Fanon, *Black Skin, White Masks* (first published 1952, Pluto Press 1986).

where everything to be seen about poverty is presented to the eyes. A variety of points of view are pre-emptively cancelled (regardless of their actuality) when poverty is presented as a ready-made image. It is only in that moment that we can safely speak of the nonpoor as a class. Stemming from this perspectivist encounter, entire social structures (and economic infrastructures) are organised in terms of the distinction rich-poor. To be clear: the material grounds of such distinction was always already there, immanently disposed; what was really 'made' is the conditions of seeing which organise those material grounds according to a clear frame. This frame is, then, applied as a model, a means of intervention – hence the reference to its pragmatism.

The nonpoor are not automatically the rich, but rather those who look at poverty – whether in fear, hatred, pity, sympathy or benevolence. The millennial subject, of which Ananya Roy speaks, is animated by a global conscience about poverty, and the object of financialized poverty, the entrepreneurial poor to be empowered by microloans are mobilised in narratives of poverty as a problem of finance. The divide of rich-poor, or bourgeoisie-proletariat, which serves as the organising principle of the Marxist critique of capital, continues to be active in the figures of the investors and the borrowers in the paradigm of capital rentier accumulation. As such, the task of intervention, of saving the poor, has historically proved to be profitable and productive, that is, a business of surplus extraction – the point in which the nonpoor coincide with the rich. Scholars referenced in this thesis have established this underlying machinic operation of the industry of global poverty alleviation, but my general question concerns the effects of the practices and techniques employed by the industry and enacted upon wider populations and territories of poverty, regardless of whether they are the direct objects of intervention (direct 'beneficiaries' of charity, the penal state, cash transfers or microloans). I argue that the gaze also produces broader effects on such populations and territories that are not directly targeted which, again, are in the realms of violence, displacement and racialisation. The shooting described at the beginning of this chapter hints at these effects.

If the spectator is in the position of a fixer for the very problem that its aesthetic position constructed, how does that fixing affect those made to occupy the position of 'the poor'? Perhaps, a preliminary question should be: how do the nonpoor propose to fix the problem of poverty? The answer is through a mode of intervention that attends to the spectator-fixer's need to act in the face of a distant suffering. That mode of intervention holds little (or at least brief and contingent) connection to any lived experience in poverty,

but rather connects with the image of poverty constructed by the gaze. It is a mode of intervention that holds close resemblance to colonial and imperialist enterprise not simply by way of a historical continuity, but rather because of the inherent aspiration to self-assimilation and others-distancing that the gaze prompts. This aspiration is nostalgic of primitivism in the sense of enabling and/or justifying the implementation of civilising projects. Colonisation and imperialism themselves were modes of intervention attending this aspiration. Their role was not just legitimating, but constitutive of western modernity and indeed of the capitalist modes of (knowledge) production. In contrast to the professed values of the industry – growth, development, progress – this nostalgia manifests a backwardness, a romanticist view of the past, when the poor were manageable, disciplinable, governable and fixable (or indeed exterminable).

Then the second step would be to ask: how does this mode of intervention rebound upon the newly unified image of ‘the poor’? Gestures of salvation are directed at the poor as though they corresponded to that image of poverty, regardless of how diverse the contingent material conditions of lives can be. As discussed in chapter 4, this image is more like a collage and primarily addresses informality – economic, financial, territorial, and so forth. The fixing evokes formalisation which is, indeed, the ultimate legal operation. As a moment of salvation – in fact, a moment of confirmation in the mirror of the self-image of the saviour – reluctance, resistance or inability to be saved frustrate the gesture of fixing. Violent gestures retaliate against those who do not get fixed, those who insist on remaining in informality (the ungrateful) and who do not capitalise on opportunities for their benefit, like banking (the unenterprising). Nostalgia for primitivism is here expressed in a wistful preference for the poor that once upon-a-time could be fixed, the poor in their purest (or primitive) state which call for civilising investments. Those days are gone, as if they ever existed. What is left are masses of ungrateful, insolent benefit scroungers that choose to deviate from a universally shared morality of preferring to work than to live on benefits. For those, the harshest force of law is deserved – again, not merely as punishment, but rather as modulation.

Hence the poor are not simply reified, as passive objects of the technical-analytic gaze and gestures of pity. The poor are also not being saved by the frameworks of poverty intervention and its accompanying legal-aesthetic modulations as gestures of goodwill. They are indeed being made: the poor are an amalgamation of diverse lives into one general category to solve all the problems these lives represent. What is done to the poor

is simply to invent them as an entity. The shooting opening this chapter, a deplorable yet very ordinary gesture in territories of poverty, is part and parcel of the visualisation practices explored in this thesis, not alien to them. In fact, it could be construed as a visualisation practice itself: a binary code being activated in the most bodily dimension possible, a selection of what gets to exist and what will be eliminated. It can also be read – as I did – as an effect of the practices which create a phenomenon to look at, or a problem to fix. Ultimately, this shooting is that inherent gesture at the interface of all the circuits traced in this thesis, the most mundane practice that allows poverty – the measurable and calculable poverty – to be known, seen and acted upon.

CONCLUSION

Returning to the standpoint of a socio-legal practice research

As I now come to the final remarks of this research project, I find myself at the same time – and once again – reporting to funders of a practice research project that I developed as an international knowledge exchange between institutions in the UK and Brazil this year. The object of study and intervention of this short project was a territory of violence and poverty in Rio de Janeiro, a grouping of favelas called *Complexo da Maré*. It brings me a sense of irony to be reliving the same uneasiness about my role that prompted me to develop this research in the first place. I started and ended this research in a position of conflict but now from an inverted angle: I am in the ‘developed world’ sending funds to the ‘developing world’ and urging colleagues in the latter to observe guidelines, deadlines, and most importantly, to document the indicators of our ‘successful and impactful’ experience. The contradictory position of mediation that I presented in the opening of this thesis is now heightened in many ways, including by the added complexities of dealing with issues of poverty in the context of a global pandemic that was initially announced as transcending social differences and treating everyone as equally susceptible to its effects. To attempt to raise discussions about access to rights, research ethics and funds management in a locality so deeply affected felt unethical or improper to say the least – violent and offensive at times.

Although the conflict is familiar, I find myself more equipped now to perform my role with a critical attitude, which prior to delving into the research process of this thesis was just an intuitive, unelaborated critique. Ultimately the thesis that I now conclude has allowed me to advance a reflection on praxis and a reconsideration about the ethics of the basic guiding principles of the socio-legal practice researcher’s craft. Certainly, an actual revision and reformulation of modes of practice would require specific dedication. Yet, the reflexive journey that I have undertaken in this thesis is a step in that direction. I now understand with more clarity the historical and geopolitical sources of my conflicts in the fact that the socio-legal practice researcher – as well as other professions that act ‘on the ground’ – is the point of contact between the two extremes of the perspectivist encounter discussed in the thesis. As such, this point of contact carries or embodies the multiple contradictions of the ‘mission’ to deal with poverty – because it does so ‘on site’ rather than from a distance. It bares the weight, in daily practices, of the modern project of

attempting to know and fix poverty as a symptom of material lack allegedly derived from forms of socioeconomic dualism, a culture of informality or even of its environment as the many theories of poverty mentioned in this thesis profess. Having been trained to fix a social problem that is inherently unjust but framed as quasi-naturally occurring, having to show up to the sites of heightened contradictions, where the pretence of aid becomes more admittedly turned to the intentions of the nostalgic donors rather than the effectiveness of efforts from the perspective of recipients, the socio-legal practice researcher is called upon to live through the experience of unresolvable conflict and indeed contribute to its continuation.

At times of intensified crisis, as is the case in the current pandemic context, such conflicts are intensified in unprecedented ways. The ‘problem of poverty’ gained new layers of complexity and a new sense of critical priorities, transforming both the global poverty scene and the experienced tensions explored in this thesis. The heart of the matter – the injustices that produce poverty – became more visible and in plain sight. In contrast, all the projects and funding available to deal with poverty that ‘the industry’ mobilises were unable to avoid the foreseeable outcome of territories of poverty, so typically densely populated, being disproportionately affected. For sure, networks of solidarity, of private and individual donations – including many millionaire contributions to science and to critical contexts – were rapidly formed. But from the local standpoint from which I could observe, the funds previously available and being implemented at the time of the pandemic outbreak and thereafter, including that of my own short project, were unable to be put to a better use. Deadlines were extended, adjustments to previous commitments were relaxed, but even in cases where funds could be repurposed, it has been typically to secure new forms of achieving the anticipated outcomes, outputs, deliverables and impacts of the projects put on hold. The reality is that such funds, as part of the culture of audit, are highly rigid and fixed. Community-based crowd-sourcing campaigns were then organised to distribute items of basic need to local populations such as food, water and items for personal hygiene. Even organisations with vast sources of funding had to resort to creative forms of fundraising whilst international funds were often expected to be put on hold for after the crisis – this of course does not include the specific funds and awards opened to specifically face the crisis from diverse (public and private) sources.

The analyses that I developed in the thesis sought to explore such contradictions without evading the part that mediators play in the circuits of poverty knowledge and intervention

– and without exempting myself from the contradictions of my own position, as may occur when one's premises proceed from unveiling a dominant ideology or rationality that is held by a self-interested hegemonic group, normalising order or inherent logic 'out there'. Does this approach result in that I correlate or associate, as part of the same machineries of poverty production, the practices of both context-based initiatives, which deal with the people who 'ended up' in a territory of poverty by looking into their existing needs and troubles, and international financial institutions that in many ways determine where 'the poor' can and cannot be settled? Yes, but only to the extent that they are both dealing with poverty and some relevant insights can be extracted from seeing them in conjunction, where their practices meet and enable each other. Whilst they are certainly not operating by the same standards, principles and ethos, by framing them as part of a whole that 'deals with the poor', some aspects of their crafts can be found in common and even in mutual collaboration. It is only in this regard, to the extent that construing them together allows me to say something about the general gestures and attitudes towards poverty, that I put them together. In their own ways and terms – which are often contradictory to each other – they are each making poverty seen and negotiating, or indeed disputing, ways of seeing poverty. But then comes the question: does this negotiation mean that the industry of global poverty reduction could be transformed through a discursive and performative dispute that would favour a grounded perspective – as in a perspective from below? In that case, the answer that my approach in this research leads me to indicate is *no*. I am not professing a primacy of the local over the global, although it is true that the industry is constantly changing, finding new directions and innovations and it has drastically reformulated itself over the years, including by incorporating critical voices. These transformations, however, are ever contingent and momentary. The task, in turn, ends up being to find ways in which different participants of such a global and seemingly disconnected network can partake in the productions of 'the industry', to enter the stage of negotiations, to raise points in the agonistic and impermanent formulations of such a *métier*.

I acknowledge that throughout the thesis I have repeatedly asserted my intentions and, even more so, what I did *not* intend with this investigation. I understand that the risk of doing this is to be read as apologetic and apprehensive but, from my perspective, it was important to be meticulous about situating the boundaries of my critique so not to be received as adding to current global trends of critiquing science and politics. That is to say: at a global time of science scepticism and indeed denialism, it was very important to

emphasise that I was not relativizing the content of social research and poverty data in terms of their accuracy, validity, reliability or relevance. Nor was I aiming to challenge the effectiveness of social policy, provisions, projects and rights, in a global context of growing far-right and ultraliberal conjunction leading to public policy minimalism, by raising a critique that could lead to conclusions that the more that is done about poverty, the worst the situation gets. To be insistent as to what my critique was not has been a necessary task in criticising those who are dedicated to doing something about appalling living conditions of poverty around the world, particularly with regard to the current Brazilian political scenario – where the national census is often under threat of budgetary cuts or content restriction, where research, experts and data are not heard and indeed they are increasingly curtailed. Yet, here I am advancing a critique of data-driven approaches to poverty. The points my research articulate indeed require constant self-critique and frequent pauses to set the direction straight in order to be able to move forward.

Having established – now once again – what my thesis is not, I now turn to the arguments that it makes. I have indicated in the initial roadmap to the thesis that each chapter was meant to address a stage within how I have mapped interactions between poverty knowledge, antipoverty law and interventions upon populations and territories classified as in poverty. I indicated that this research path would allow me to address some of the conflicts that prompted me to start the research as a ‘socio-legal practice researcher’, particularly regarding the legal mediations and legal implications of poverty making. Certainly, it does not resolve the conflicts, and it was never meant to. However, the insights that this exploration has brought up can usefully lay out the terms in which new approaches to socio-legal practice research could be potentialized. How do the chapters in this thesis allow me to revisit the tensions that I have been describing as conflictive? Particularly in light of the current task that I face, of reporting to a funder, I will now elaborate how each chapter offers insight and critique:

The **first chapter** explicated that the ways in which poverty is generally conceptualised within a capitalistic frame of view is based on its epiphenomenological emergence, which ends up turning it into a mere problem of unmet needs in the face of scarce resources, or from critical perspectives, the problematic outcome of the accumulation of wealth by dispossession. I mentioned how this has been expressed in histories of ideas about the nature and the causes of poverty which consolidate poverty as material lack, within a seemingly natural order of things where populations and territories reproduce their own

poverty. My proposal, in contrast, has been to examine the spatial-temporal dispositions of populations and territories not as causes but as effects of active legal techniques, that is, as being continually affected by the legal regime of property and modulated into the images of poverty. This conceptualisation has been grasped in this thesis as reactive – be it in terms of fascination, hostility, fear, pity, horror, hatred, perception of danger or whatever it might be in the established perspectivist relationality. As a reactive gesture, the technical-analytical gaze that sees poverty visualises and responds to the vision of the propertyless, as forms of attitudes towards poverty. This was thus characterised as a ‘legal moment’ in the sense of having the markers of poverty – such as its socioeconomic indicators – deriving from proprietary practices and techniques that fall upon populations and territories. The practices that I initially signalled concerned the interplay between legal techniques of ascription (which designate who are the poor) accompanied by scientific techniques of inscription (which classify apparent attributes of the poor) in the gestures of tracing, separating, circumscribing, classifying. It is here that a truly legal operation takes effect, and becomes noticeable, to consolidate the ascriptions and inscriptions of traces of poverty; this is an onto-epistemic operation that essentialises poverty as a problem to be fixed and through which poverty appears as a natural condition, an attribute, a state of being and a material condition.

In laying out the grounds of my project, I made no claims about a reality of poverty or assumptions about its lived experiences. Yet, this does not mean being oblivious to the actuality of deprivation, precarity, misery and need, i.e. to the fact that after being formulated and enacted, poverty comes to be an actually existing attribute that affects populations and territories. I have raised this reservation since the beginning with the intention of displaying precisely the disjunction between the supposed ‘nature’ of poverty that antipoverty practices address, and the conditions of poverty to which populations and territories are subjected. Rather than a lack, poverty is a negation, a deprivation, an injustice. It is not emptiness, it is violence. And this violence has been shown to be continually re-instantiated not only via proprietary interactions but also in responses to poverty themselves. To treat poverty as a lack, in actual terms, re-instantiates its originary violence by failing to acknowledge it. In this regard, the idea of poverty, the material manifestation of the ‘reality’ of poverty in the concrete world, and the concrete effects of poverty as a lived experience of precarity, although separate productions, are part and parcel of the same productive circuits. I have sought to focus on their connections, rather

than their distinctions, which are situated in the processes of writing and imaging poverty that make it a visible and existing thing in the world.

‘Propertylessness’, now taken to mean more than lack of material resources and indeed a gesture of violent dispossession, promotes a shift in perspective. This shift is an invitation to occupy a particular position in the said perspectivist relationality that connects (and constitutes) the poor and the nonpoor. This new positionality – and I say this very cautiously – is that of intermediation, the position of the socio-legal practice researcher. The reason for caution is evident: there is no question that this intermediary is sided with the nonpoor, i.e., those who are gesturing a gaze towards the poor and who benefit from that gaze. However, in being present ‘on the ground’ or ‘in the field’, gazing through a privileged lens of proximity, observing first-hand the effects of antipoverty legislation and interventions to which the intermediary undoubtedly contributes, they can also recognise a few ironies and contradictions of their own gaze. Unlike the distant observer who engages in a politics of pity and benevolence, the intermediary is often right there as a ‘participant observer’, as their sociological-anthropological parlance rightfully designates. What makes this intermediate position intermediate at all is solely the fact that it is not a distant gaze, not *as* distant even though safe distances are certainly kept. It is a position, thus, that concedes a vision of poverty both as a social problem and as a social injustice. Precisely for that reason, it is an irreparably ambiguous and conflicting position to be in – one that is capable of seeing the making of poverty whilst also invariably contributing to it by validating its production.

Chapter 2 illustrated how the reactive conceptualisations of poverty are also directly linked to the ways in which its interventive solutions are designed. Legal frameworks organise around poverty – in connection to its capitalistic conceptualisation – and establish scripts and codes that translate attitudes towards poverty into modes of administrations of poverty. By looking into four models of poverty administration (grouped in clusters of poverty relief, criminalisation, welfare provision and international development), antipoverty law was found to bridge poverty knowledge and interventions upon poverty as such a script, with prescriptions and restrictions. This is a two-way bridge: conceptualisations of poverty establish strategies to be followed by tackling poverty’s purported causes and symptoms; the motives of poverty administration condition the ways of seeing poverty by which knowledge practices will proceed in their scrutiny. In this circuitous interaction, both knowledge and intervention practices are regulated as well as

designating how legislations must be structured to enable their operations. Image-making is, here, the 'legal moment' to be found: as a technique of visualisation, law takes form through codifications that regulate poverty and sets the tone for images of poverty to take shape, which, in turn, establish scientific modes of measurement and calculation as well as the political responses to fix the 'newly-formed' problem.

The practitioner in the perspectivist intermediation has two basic options here: either to implement the prescribed scripts and images, operationalising the images of poverty with which they work; or to take a critical stand against the legal frameworks by denouncing their doings. Either way, the practitioner is trapped in the (capitalistic) frameworks and acts in referential ways, acknowledging their all-encompassing range. Law becomes self-referential, which is a typical point of critique in critical legal theory. To be released from the frameworks, to seek alternative modalities to view and to respond to that which has now been consecrated as poverty is only seemingly impossible, particularly from the legal standpoint. It would require a-legal, if not illegal, investments – in a similar vein with the forms of resistance to or circumnavigation of the law practiced by populations that are designated as in poverty. Perhaps more so today than ever before, as the attitude and administration of poverty becomes more and more globally unified. In the international development landscape of global poverty reduction, the guidelines to follow are clear and technically based on evidence. To consider a way of dealing with poverty that does not follow a rights-based approach, pro-poor growth and sustainable development is to deny evidences of what works, even though critical scholars so clearly point to its failures based on evidence and indicators collected by the system itself. To raise the idea of non-growth is too alien to be taken seriously.

Moreover, how can one raise an argument that cash transfers or even universal basic income are responding to a specific mode of interpretation and of problems that are not exclusively material without falling into the argumentative trap of suggesting their ineffectiveness, and thereby instantly overlooking or relativizing the urgent needs of those striving to survive as we speak and to which such measures are determinant of life or death? There is no other competing framework to follow and there is little space for innovation. Are monetary transfers not precisely a distributive gesture (even though no one is really relinquishing wealth)? The perspectivist relationality encloses as a trap at this point. The alternative to following the guidelines works to confirm them, to validate them as well as to contribute to their expansion, finding more and more terrains, new grounds

to reach, more frontiers to expand into, more favelas and more residents to assimilate into a proper form, one way or another. For sure, there is nothing inherently evil about relief, alms, donations, income transfer, credit lending, social rights, social provisions, or aid to poor people elsewhere. The problem starts when these attitudes shape or restrict the very basic modes of seeing poverty, which are consecrated by law. It is in acknowledging the manufacture of legal codifications, the role of law as technique of visualisation, that antipoverty law appears as both a source and a consequence of poverty data and engenders corresponding modes of visualisation, knowledge and intervention.

In **chapter 3**, I turned to the gaze, to situate law as the mediation in the turning point from social quantification to qualification, from data to fact, from calculation to attribution. The ‘legal moment’ here is precisely the passage from knowledge to intervention, which is also when law emerges as an existing entity, a sociotechnical formation itself. By emphasising the creative (and often effacing) effects of scientific formulations I explore the imaginal features of data forming *a priori* conceptual formulations of poverty to be later detected and inferred in the world. In analysing how poverty is thus circumscribed, I conceptualise poverty as a legal-aesthetic composition that is continually reshaped by methodological innovations of measurement and policy. This proposition can be simplified in the following terms: modes of seeing poverty define the configuration of poverty in the world. Having been established as a technique of visualisation that frames poverty and allows it to be seen, law itself emerges as an acting entity that samples the material grounds of ‘the poor’ – bodies and soil, populations and territories – to be subjected to the data-generative procedures of knowledge production that order them into intelligible and intervenable notions of poverty. Law provides the crucial means through which such ontologisation occurs, materialising the poor as seemingly pre-social entities. From this perspective, I explored the legal-aesthetics of poverty that mobilise images and modulate the world.

I have inquired into the very conceptualisation of law and adopted a technological perspective that considers ‘law’ to be the code through which socio-technical formations coalesce, the rules of the game of algorithmic performance, the fortuitous and impermanent scripts of what it takes to get the ball rolling. Yet, such codes are not predetermined nor pre-exist what they form; it is not a pre-ordained historical development, nor is it propelled by a systemic logic. It is simply the product of contingent formations that we can trace back while it is (momentarily) operative. There is no pinpointing law as such. One can only identify the workings of a particular mode of

functioning that happen to be in place in a set time and space. But the integrated view of all such coexisting, competing and supplementary particular codes which administer (and create) poverty in the world is unified into poverty law. This unification is simply a methodological move. Poverty law does not present itself as a unified scheme and each mode seems to operate notwithstanding each other – criminal law practitioners and development law practitioners will not even acknowledge that they share and co-create the same object.

The researcher who enters a territory of poverty for fieldwork or to implement 'access to rights' intervention projects, is faced with these conditions: a pre-selected environment, demographics, culture, raciality, spatiality, livelihood, productivity, modes of navigating and behaving as well as everyday life dynamics that characterise the 'slum' – a term that is as problematic as its alternatives of favela, bidonville, ghetto, shanty-town... The observer who gets this close carries not merely preconceptions but indeed frames of seeing a particular form of poverty. To detect 'the poor', to immerse oneself into territories of poverty, to interact with poor populations, is already an experience which takes poverty as an entity, something specific and unique to that place, those people, that social history, that disordered planning, in one term: that statistical reality which normatively organises the world as if formed by essentialised, autonomous and pre-social categories, that is, independent from any form of preceding knowledge and visualisation. Trapped within such a visual economy, one cannot infer but effectively only confirm poverty in the manifest traces of what is expected to be found in these territories and populations. Does this imply that the observer is misapprehending poverty? I have argued that this is not the case and indeed I have insisted that there is no reality of a true form of poverty 'out there' to be apprehended. Field notes are, thus, recognition rather than identification.

Moreover, beyond apprehension, the observer will also affect the object of observation by translating its traces into cohesive categories, to be duly found in order to be worked on. A socio-legal practice researcher needs to find what needs to be worked on, that which is in need of intervention: indications of lack of access to rights, absence of social services, failed planning policies, irregularities in spatial occupation and land use, unproductive social dynamics, informal relations and conventions, problematic living conditions and overall subnormal populational agglomeration... Whether these findings are beneficial or detrimental is irrelevant to my point. The effective critique is to perceive these practices as operational within a capitalistic frame of knowing and identifying poverty, a re-

instantiation of a gaze which engendered these forms of seeing poverty as a problem to be fixed in the first place. In the mundane world of socio-legal practice researchers, the possibility of reflecting upon the effects of one's own roles in the modes of seeing and intervening in poverty is of crucial importance in order to potentially – always only potentially – circumnavigate the capitalistic framework through anticapitalistic practices. Still, the possibility of really evading such a visual economy will remain unverifiable. Besides, we know quite well how capitalist modes of thinking and living continually reinvent themselves as the solution to every new problem these modes create themselves. These reinventions have been exemplified in the models of corporate social responsibility, sustainable development, pro-poor growth, ethical trade and consumption and so on.

As a matter of fact in the data-driven world of our times, poverty's definition comes to enact an aesthetic interventionism on the part of the industry of global poverty reduction that I addressed in **chapter 4**. As multilateral, financial and/or corporate endowed institutions dominate the circuits of poverty knowledge and intervention, the legally-sanctioned imageries of poverty evoke particular components which coincide with the remedies that such institutions formulate. As an imaginal mode of governance is established, technical-administrative practices work to produce conclusive figures and profiles of 'the poor', as has been demonstrated in regard to the financialization of both poverty and its solutions. Within this unquestionably capitalistic visual economy of poverty, another 'legal moment' is manifested in the formalisation of populations and territories, i.e., their assimilation into the proper form of poverty. It is within this function that rights-based approaches to poverty have been analysed. Rights, I have argued, have articulated a very particular legal technique for the formalisation of poverty since very early on in the inaugural stages of modern law and its corresponding primacy of proprietary regimes of individual and exclusive ownership. In the age of finance, globalisation and mainstreaming of human rights, these technological functions of rights (as well as their recognisability as such) are only exacerbated. Yet, far from idealising informality and vilifying the fight for rights for precarious lives – which include important labour protections and should not be quickly overlooked as reactionary – my critique here is focused on the operational effects of rights in formalising the poor as poor, pushing such precarious lives into a mould of acceptability and turning objectionable types of people into a palatable profile of the poor.

As part of the 'industry' – irrespective of the organisations which host them, the funders who finance their projects and the specific terms with which these projects have been phrased so as to fit funding remits – the socio-legal practice researcher is basically dedicated to promoting access to rights in localities or within social groups marked by a somewhat essentialised notion of 'unequal access to rights'. The practices involved in the job, earlier presented in terms of funding bids, demands that the practitioner adjust their visions in tune with the funding priorities of funders, irrespective of what local configurations and particularities manifest. To propose more radical lines of action that consider poverty as an injustice rather than a by-product, is to miss funding opportunities to subsidise the practitioner's activities and their subsistence – in an overall context of increasingly restrictive and precarious modes of existence that this practitioner themselves faces. Indeed, the practice of fundraising determines the possibility of all their other practices, including their own professional survival as such. To cater to the funders desired models of intervention, that which the distant funder sees as the relevant actions to solve local problems, is part of the job. It surely can be subverted and turned on its head, but there will always be a degree of negotiation which roots the permanent suspicion from other grassroots movements and groups that also act in the field – meaning, deference to the demands of distant entities results in ever growing reluctance from local operators, often mobilised as 'research participants'. It is a suspicion that can be expressed in a form of hostility towards 'academics', broadly speaking, who benefit from their position of intermediation, but also a suspicion that is often manifested in the submission to the scripts with hopes of seeing change – which itself entails playing roles, like saying what 'needs to be said' in interviews, or to translate longstanding disputes into the language of rights.

As such, little by little, all actors find their roles as conductors in the circuits of poverty knowledge and intervention. The formalisation is indeed wide-ranging and all-encompassing. On the other hand, it is also important to acknowledge that I write at a moment when this model of funding is itself in decline – indeed the trust in science and policy is also in decline. After decades of a wealth of funding opportunities, institutions find it harder and harder to strike a deal. That is to say, after decades of an intense investment in institutionalising community groups (i.e. the push for formalisation in the so-called NGOisation of social movements and the professionalisation of activists), which included changes in legislations regulating the nature and the structures of NGOs, after groups have gradually adjusted their forms in order to be able to participate in the

industry's pledges for funds, now they are also being forced to shut doors by lack of resources. It remains to be seen what will become of the 'failed industry', that critics profess, and its supply chains in the years to come.

In the **final chapter** I reached the culmination of my argument by taking this discussion to the local microcosms that I have, myself, occupied as a practitioner in the past years and which motivated this research in the first place. Favelas, as territories of poverty – yet not the exclusive 'habitat' of the urban poor – could indeed have been more centrally placed as my empirical object of observation in this thesis but, for reasons I have exposed from the outset, I have made that locus into an (often unmentioned) influence throughout the thesis, motivating the reflections in each chapter. By returning to those settings in order to demonstrate the very concrete doings as well as the devastatingly wide global-local reach of the industry of poverty reduction, I have demonstrated how diverse the passage from apprehension to intervention can be in re-enacting the violence, displacement and categorisation of propertylessness. The final and grounded 'legal moment' evoked is that of legal-aesthetic modulations which precisely assemble various gestures of violence and create the conditions under which poverty will be configured and will appear/disappear in the urban landscape. It is a legal moment of poverty manufacturing that creates a phenomenon to look at, or a problem to fix.

The practice researcher who does fieldwork and leads intervention projects in such territories of poverty and violence – human rights-based interventions, to be sure – knows quite well that there is an incongruity between their craft and the available resources to forge ideal types. From that position of contradiction, it can be perceived that the object 'poverty' is only a unifying image that merges heterogeneous populations and territories to fit the expectations of a gaze. As such, by realising that there is nothing exclusionist about it and indeed that marginalisation is integrally made – as a constitutive element inscribed as external, a containment within – the socio-legal practice researcher might prefer to explore and intensify the gap. Hopefully the discussions I raised in this thesis can support processes of (self)critique from this privileged position of the mundane, everyday live conductor of poverty knowledge, antipoverty law and interventions upon territories and populations of poverty.

To embrace the conflictive nature of the intermediary position of the socio-legal practice researcher and to insert it at the core of the industry of poverty reduction came to be a fruitful approach as it allowed me to examine the intricate webs of poverty production in

the realms of research, policy and law. I have demonstrated that the capitalistic model of knowing and fixing poverty rests on much deeper contradictions between public and private life, universal and particular, global and local as well as between benevolence and violence. Ultimately, the analyses developed in the thesis make such contradictions more apparent at any given point of its circuits. As I initiated this research path seeking to open up new avenues for a potent praxis, I found potency in intensifying the conflict by experiencing it as a practitioner in the 'Global North' gazing at the 'Global South'. I am now more equipped in my position because I can now identify a more suitable role from which to agitate. Rather than solving them, I channel these contradictions higher up in the circuits and back to where they come from: to the centres of the industry's production and of the politics of pity. Making contradictions explicit is the ultimate revolutionary and radical gesture to turn a politics of good intentions, pity and distant suffering on its head. In effect, the impacts of this reviewed role on the 'failed industry' matters less, to an extent, than the situated, microcosmic transformations it already propels. This comes to be my ultimate goal: to politicise injustice where benefactors see essential lack.

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